

**ORDINANCE 2020 – 156 TC 440
TC-12-20 Subdivisions in Historic
Overlay Districts and Landmarks**

AN ORDINANCE TO EMPOWER THE HISTORIC DEVELOPMENT COMMISSION WITH THE APPROVAL AUTHORITY FOR SUBDIVISIONS IN HISTORIC OVERLAY DISTRICTS AND LANDMARKS

WHEREAS, NCGS 160D-940 establishes the regulatory framework for a historic commission within a municipality, and further permits the designation of certain areas or properties as being of historic significance, and

WHEREAS, The City of Raleigh has established historic overlay zoning districts through its zoning powers promulgated in NCGS 160D-940, and

WHEREAS, The City of Raleigh has formed a historic development commission to review matters of congruity within identified historic overlay districts, consistent with NCGS 160D-303 and

WHEREAS, The City has deemed it appropriate to utilize the historic development commission to review requests for subdivision within these established historic overlay districts.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 10.1.1.B of the Part 10 Raleigh Unified Development Ordinance, Specific Approval Authority, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

B. Specific Approval Authority

The City Council is responsible for final action regarding:

1. Comprehensive Plan amendments;
2. Text amendments to this UDO;
3. Rezoning;
4. Subdivision approvals in the Metro-Park Overlay District other than single unit living;
5. ~~Subdivision approvals in a Historic Overlay District or for a designated Historic Landmark;~~
6. ~~Historic landmark designations;~~ and
7. Amendments to floodprone area maps.

87. Variances to Article 9.2 Stormwater Management, Article 9.3 Floodprone Area Regulations, Article 9.4 Sedimentation and Erosion Controls or Article 9.5 Watershed Protection Areas.

98. Appeals of Administrative Decisions involving Article 9.2 Stormwater Management, Article 9.3 Floodprone Area Regulations, Article 9.4 Sedimentation and Erosion Controls or Article 9.5 Watershed Protection Areas.

Section 2. Section 10.1.3.B of the Part 10 Raleigh Unified Development Ordinance, Specific Approval Authority, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

B. Specific Approval Authority

The Board of Adjustment is responsible for final action regarding:

1. Special use permits;
2. Variances;
3. Appeals from administrative decisions; and
4. ~~Appeals in the nature of certiorari of Historic Development Commission decisions granting or denying certificates of appropriateness; and~~
5. Appeals from decisions or orders related to minimum housing code standards pursuant to the terms of Section 11.6.11.

Section 3. Section 10.1.4.C of the Part 10 Raleigh Unified Development Ordinance, Specific Review Authority, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

C. Specific Review Authority

1. The Historic Development Commission is responsible for review and recommendation regarding:
 - a. Historic district rezoning; and
 - b. Historic landmark designation; ~~and~~
 - e. ~~Subdivision approvals in a Historic Overlay District or for a designated Historic Landmark.~~
2. The Historic Development Commission is responsible for review regarding Non-Subdivision Final Plat and Recorded Instruments.

Section 4. Section 10.1.4.D of the Part 10 Raleigh Unified Development Ordinance, Specific Approval Authority, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

D. Specific Approval Authority

The Historic Development Commission is responsible for final action ~~on~~ regarding:

1. Certificates of appropriateness that are subject to summary proceedings or to a quasi-judicial ~~public~~ evidentiary hearing; and
2. Subdivision approvals in a Historic Overlay District or for a designated Historic Landmark. These decisions are subject to a quasi-judicial evidentiary hearing.

Section 5. Section 10.1.8 of the Part 10 Raleigh Unified Development Ordinance, Summary of Review Authority, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

In the row titled “Subdivisions in a -HOD-G or HOD-S or properties within Historic Landmarks”, in the column titled “Historic Development Commission”, replace “RR” with “D-QH”, in the column titled “City Council”, remove “D-QH”.

In the row titled “Certificate of Appropriateness – Major”, in the column titled “Board of Adjustment”, delete “A-QH ⁽⁸⁾”.

Section 6. Section 10.2.5.E.2 of the Part 10 Raleigh Unified Development Ordinance, Development Services Department Action, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

2. Development Services Department Action

- a. Development Services has the authority to approve preliminary subdivision plans without review by either the Historic Development Commission, City Council or the Board of Adjustment except in the following situations in accordance with Sec. 10.1.8:
 - i. The preliminary subdivision plan is within a Historic Overlay District or of a designated Historic Landmark;
 - ii. The preliminary subdivision plan is located in a -MPOD, other than single-unit living lots; or
 - iii. A Variance Request is filed.
- b. After an application has been determined complete, Development Services shall give notice of pending review in accordance with Sec. 10.1.8. If subsequent to the filing of a completed application, a waiver from the Board of Adjustment is requested, Development Services shall give notice of the requested waiver in accordance with Sec. 10.1.8.
- c. In reviewing the preliminary subdivision plan, Development Services shall consult with the Public Utilities, City Planning, Engineering Services, Parks and Cultural Resources, Transportation and Fire Departments to check the proposed preliminary

subdivision plan against the requirements of the City Code and other applicable technical requirements of the City.

- d. Following review of the preliminary subdivision plan for compliance with the City Code and other applicable technical requirements of the City, Development Services shall approve, approve with conditions or deny the preliminary subdivision plan. Development Services shall keep written records of any action taken.

Section 7. Section 10.2.5 of the Part 10 Raleigh Unified Development Ordinance, Subdivision Review, is hereby amended by adding the following language shown in the underlined as a new subsection G:

G. Subdivisions in Historic Overlay District or for designated Historic Landmark

For preliminary subdivision plans within a Historic Overlay District or of a designated Historic Landmark, following the administrative review described in Sec. 10.2.5.E.2, above, the application shall be referred to the Historic Development Commission. The Historic Development Commission shall conduct a quasi-judicial evidentiary hearing in accordance with Sec. 10.2.15. The Commission shall take no action except to prevent the subdivision of land that would be incongruous with the special character of the district or the landmark.

Section 8. Section 10.2.11 of the Part 10 Raleigh Unified Development Ordinance, Appeals of an Administrative Decision, is hereby amended by repealing subsections F and G in their entirety and replacing same with the following:

F. Appeals from the Board of Adjustment are to Wake County Superior Court pursuant to N.C. Gen. Stat. §160D-1402.

Section 9. Section 10.2.15.F of the Part 10 Raleigh Unified Development Ordinance, Appeals, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

F. Appeals

1. ~~In any action by the Historic Development Commission granting or denying any certificate of appropriateness issued as a summary proceeding or following a quasi-judicial public hearing, an appeal by an aggrieved party may be taken to the Board of Adjustment. To perfect such an appeal, written notice of intent to appeal must be provided to the Historic Development Commission, within 20 days following the effective date of decision. A completed application for appeal of a Raleigh Historic Development Commission decision, including all papers constituting the record, must then be filed with the Board of Adjustment within 35 days following the effective date of decision of the Commission. Effective date of decision occurs when the minutes of the proceeding are approved by the Commission. Appeals shall be in the nature of certiorari.~~ Appeals from the Historic Development Commission are to Wake County Superior Court pursuant to N.C. Gen. Stat. §160D-1402.

2. The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission or any successor agency. Notice to the Historic Development Commission shall be served on the same day and in the same manner as for the North Carolina Historical Commission unless oral notice of appeal is given to the Historic Development Commission during the meeting at which the decision is rendered. The decision of the North Carolina Historical Commission shall be final and binding upon both the state and the Historic Development Commission.

Section 10. This text change has been reviewed by the Raleigh Planning Commission.

Section 11. This ordinance has been adopted following a duly advertised legislative hearing of the Raleigh City Council.

Section 12. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 13. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit in N.C.G.S. 14-4(a) or similar limitations.

Section 14. This ordinance is effective 5-days after adoption.

ADOPTED: November 4, 2020

EFFECTIVE: November 9, 2020

DISTRIBUTION: Young, Crane, Bowers, Waddell, Rametta, Holland, Bailey-Taylor, City Attorney DL; City Clerk DL, Tully, Hargrove, Holmes