

1 07 NCAC 04R .0909 Scope of Rules and Overview of Statutory Authority is amended under temporary procedures as
2 follows:

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4 **07 NCAC 04R .0909 SCOPE OF RULES AND OVERVIEW OF STATUTORY AUTHORITY**

5 (a) Rules .0901 - .0908 of this Section relate to recommendations made by the State Historic Preservation Officer
6 (SHPO) to the Secretary of the Interior in connection with federal tax incentives involving the rehabilitation of ~~income-~~
7 ~~producing~~ income producing historic ~~properties.~~ properties in accord with the Code of Federal Regulations, 36 CFR
8 67.

9 (b) The SHPO makes certifications of historic significance and certifications of rehabilitation in connection with state
10 tax incentives involving the rehabilitation of non-income-producing historic properties. The rules .0909 - .0915 of
11 this Section are applicable to these certifications under Articles 3D and 3H of Chapter 105 of the General Statutes.
12 ~~certifications.~~

13 (c) The procedures for obtaining certifications under Articles 3D and 3H of Chapter 105 of the General Statutes are
14 set forth in Rules .0909 - .0915 of this ~~Section.~~ Section are applicable to these certifications for projects in which
15 qualified rehabilitation expenditures and expenses were incurred prior to January 1, 2015, under Articles 3D and for
16 rehabilitation projects for which an application for eligibility certification was submitted prior to January 1, 2015,
17 under 3H of Chapter 105 of the General Statutes. Owners wishing certifications shall provide sufficient
18 documentation to the SHPO to make certification ~~decisions.~~ decisions based on these Rules. These procedures shall
19 be applicable to future and pending certification requests except as otherwise provided herein.

20 (d) Requests for certifications and approvals of proposed rehabilitation work shall be sent by an owner to the SHPO
21 for review. All certification decisions based on these Rules shall be made by the SHPO based upon review by HPO
22 staff of the application and supporting documentation.

23 (e) Rule .0916 of this Section relates to fees charged for reviewing income-producing and ~~nonincome-producing non-~~
24 ~~income producing~~ rehabilitation certification requests. ~~[requests under Articles 3D and 3H of Chapter 105 of the~~
25 ~~General Statutes.]~~ requests for projects in which qualified rehabilitation expenditures and expenses were incurred prior
26 to January 1, 2015, under Articles 3D and for rehabilitation projects for which an application for eligibility certification
27 was submitted prior to January 1, 2015, under 3H of Chapter 105 of the General Statutes.

28 (f) The SHPO makes certifications of rehabilitation in connection with state tax incentives involving the rehabilitation
29 of income-producing historic properties. Rule .0917 of this Section is applicable to the coordination with the Federal
30 Certified Historic Rehabilitation Program for these rehabilitation certification ~~requests.~~ ~~[requests under Articles 3D~~
31 ~~and 3H of Chapter 105 of the General Statutes.]~~ requests for projects in which qualified rehabilitation expenditures
32 and expenses were incurred prior to January 1, 2015, under Articles 3D and for rehabilitation projects for which an
33 application for eligibility certification was submitted prior to January 1, 2015, under 3H of Chapter 105 of the General
34 Statutes.

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36 *History Note:* Authority *G.S. 105-129.35; 105-129.36A; 105-129.74; 105-130.42; 105-151.23;*
37 *Temporary Adoption Eff. January 1, 1998;*

1 *Eff. August 1, 1998;*
2 *Amended Eff. November 1, 2004;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,*
4 *2015.*
5 *Temporary Amendment Eff. January 1, 2016.*

1 07 NCAC 04R. 0918 Scope of Rules and Overview of Statutory Authority under Article 3L of Chapter 105 of
2 the General Statutes is adopted under temporary procedures as follows:

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4 **07 NCAC 04R .0918 SCOPE OF RULES AND OVERVIEW OF STATUTORY AUTHORITY UNDER**
5 **ARTICLE 3L OF CHAPTER 105 OF THE GENERAL STATUTES**

6 (a) Rules .0901 - .0908 of this Section relate to recommendations made by the State Historic Preservation Officer
7 (SHPO) to the Secretary of the Interior in connection with federal tax incentives involving the rehabilitation of income-
8 producing historic properties. A taxpayer who is allowed a federal income tax credit under section 47 of the Internal
9 Revenue Code for making qualified rehabilitation expenditures for an income-producing certified historic structure
10 located in this State is allowed a state tax credit as set forth in Article 3L of Chapter 105 of the General Statutes, and
11 federal approval of said rehabilitation in accord with the Code of Federal Regulations, 36 CFR 67, is required for the
12 Article 3L state tax credit.

13 (b) The SHPO makes certifications of historic significance and certifications of rehabilitation in connection with state
14 tax incentives involving the rehabilitation of historic properties. The rules .0918 - .0924 of this Section are applicable
15 to these certifications for projects in which qualified rehabilitation expenditures and expenses are incurred on or after
16 January 1, 2016, under Article 3L of Chapter 105 of the General Statutes.

17 (c) The procedures for obtaining certifications under Article 3L of Chapter 105 of the General Statutes are set forth
18 in Rules ~~[-.09018]~~ .0918 - .0924 of this Section. Owners wishing certifications shall provide ~~[sufficient]~~ the required
19 documentation based on these Rules to the SHPO to make certification decisions. These procedures shall be
20 applicable to future and pending certification requests except as otherwise provided herein.

21 (d) Requests for certifications and approvals of proposed rehabilitation work shall be sent by an owner to the SHPO
22 for review. All certification decisions shall be made by the SHPO based on these Rules upon review by HPO staff of
23 the application and supporting documentation.

24 (e) Rule .0925 of this Section relates to fees charged for reviewing income-producing and nonincome-producing
25 rehabilitation certification requests.

26 (f) The SHPO makes certifications of rehabilitation in connection with state tax incentives involving the rehabilitation
27 of income-producing historic properties. Rule .0926 of this Section is applicable to the coordination with the Federal
28 Certified Historic Rehabilitation Program for these rehabilitation certification requests.

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30 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;
31 Temporary Adoption Eff. January 1, 2016.

1 07 NCAC 04R. 0919 Definitions is adopted under temporary procedures as follows:

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4 **07 NCAC 04R .0919** **DEFINITIONS**

5 For purposes of Rules .0918 through .0925 of this Section, the following definitions shall apply:

6 (1) “Certification” means the process established by these Rules to determine the historic significance
7 of properties within National Register or certified historic districts as well as to approve proposed
8 and completed rehabilitation work.

9 (2) “Certified Historic District” means any district which is:

10 (A) designated under a local ordinance which has been certified by the Secretary of the Interior
11 as containing criteria which will substantially achieve the purpose of preserving and
12 rehabilitating buildings of historic significance to the district; and

13 (B) certified by the Secretary of the Interior as meeting substantially all of the requirements for
14 the listing of districts in the National Register of Historic Places.

15 (3) “Certified Historic Structure” means any building (and its structural components) which is:

16 (A) ~~is~~ listed in the National Register of Historic [~~Places, or~~ Places; or

17 (B) ~~is~~ located in a registered historic district and is certified by the Secretary of the United
18 States Department of the Interior to the Secretary of the United States Department of the
19 Treasury as being of historic significance to the district. Portions of larger buildings, such
20 as single condominium apartment units, shall not be considered to be individual structures
21 for purposes of income-producing rehabilitation certifications. Rowhouses, even with
22 abutting or party walls, shall be considered as separate buildings. For purposes of the
23 certification decisions set forth in these Rules, a certified historic structure encompasses
24 the historic building and its site, landscape features, and environment, generally referred to
25 herein as a "property" as defined in this Rule.

26 (4) “Certified rehabilitation” means repairs or alterations consistent with the Secretary of the Interior’s
27 Standards for Rehabilitation and certified as such by the State Historic Preservation Officer.

28 (5) “Department of the Interior” means the United States Department of the Interior.

29 (6) “Discrete property parcel” means a lot or tract described by metes and bounds, a deed or plat of
30 which has been recorded in the deed records of the county in which the property is located, and on
31 which a State-certified historic structure is located, or a single condominium unit in a State-certified
32 historic structure.

33 (7) “Historic District” means a geographically definable area, urban or rural, possessing a
34 significant concentration, linkage or continuity of sites, buildings, structures or objects united
35 historically or aesthetically by plan or physical development. A district may also comprise
36 individual elements separated geographically but linked by association or history.

- 1 (8) “Inspection” means a visit by the [HPO] State Historic Preservation Office (HPO) to a historic
2 structure for the purposes of reviewing and evaluating the significance of the structure and the
3 proposed, ongoing, or completed rehabilitation work.
- 4 (9) “National Park Service” (NPS) means the division within the United States Department of the
5 Interior responsible for administering national parks and historic preservation programs.
- 6 (10) “National Register Historic District” means any historic district listed in the National Register of
7 Historic Places.
- 8 (11) “National Register Nomination” means the documentation for a resource that includes the National
9 Register Nomination Form NPS 10-900 with accompanying continuation sheets, maps, and
10 photographs and that is prepared in accord with requirements and guidance in the NPS publication
11 How to Complete the National Register Registration Form: Bulletin 16A and in other NPS technical
12 publications on the subject.
- 13 (12) “National Register of Historic Places” means the official federal roster of districts, sites, buildings,
14 structures, and objects significant in American history, architecture, archeology, engineering, and
15 culture that the Secretary of the Interior is authorized to expand and maintain pursuant to the
16 National Historic Preservation Act of 1966, as amended (often referred to as the “National
17 Register”).
- 18 (13) “Owner” means a person, partnership, corporation, or public agency holding a fee-simple interest
19 in a property or any other person or entity recognized by the North Carolina Department of Revenue
20 for purposes of the applicable tax benefits.
- 21 (14) “Period of Significance” as defined by guidelines for the National Register means the length of time
22 when a property was associated with important events, activities, or persons, or attained the
23 characteristics which qualify it for National Register listing.
- 24 ~~[(14)]~~ (15) “Property” means a building(s) [and/or] and structure and its site and landscape features.
- 25 ~~[(15)]~~ (16) “Rehabilitation” means the process of returning a building or buildings to a state of utility,
26 through repair or alteration, which makes possible an efficient use while preserving those portions
27 and features of the building and its site and environment which are significant to its historic,
28 architectural, and cultural values as determined by the SHPO.
- 29 ~~[(16)]~~ (17) “Secretary of the Interior” means the Secretary of the United States Department of the
30 Interior or the designee authorized to carry out his/her responsibilities.
- 31 ~~[(17)]~~ (18) “Standards for Rehabilitation” means the Secretary of the Interior’s “Standards for
32 Rehabilitation” as cited in the Code of Federal Regulations, 36 CFR 67. The “Standards for
33 Rehabilitation” include all subsequent amendments and editions, which are provided at the
34 following website: www.nps.gov/tps/standards/rehabilitation.htm.
- 35 ~~[(18)]~~ (19) “State Historic Preservation Office (HPO)” means the section within the North Carolina
36 Office of Archives and History responsible for administering historic preservation programs.

1 20 “State Historic Preservation Officer (SHPO)” means the Deputy Secretary of the Office of Archives
2 and History of the Department of Natural and Cultural Resources, or the Deputy Secretary’s
3 designee, who acts to administer the historic preservation programs with the State.

4 ~~{(19)}~~ (21) “State-certified historic structure” means a structure that is individually listed in the
5 National Register of Historic Places or is certified by the State Historic Preservation Officer as
6 contributing to the historic significance of a National Register Historic District or a locally
7 designated historic district certified by the United States Department of the Interior. For purposes
8 of ~~[nonincome producing]~~ non-income producing rehabilitation certifications, a single
9 condominium unit in a State-certified historic structure will be considered an individual structure
10 and a discrete property parcel.

11 ~~{(20)}~~ (22) “Structure” means a building created to shelter any form of human activity, such as a house,
12 barn, church, hotel, warehouse, mill, or similar structure. However, sites and objects as defined in
13 the Code of Federal Regulations, 36 CFR 60.3 do not qualify as structures.

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15 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;
16 Temporary Adoption Eff. January 1, 2016.

1 07 NCAC 04R. 0920 Introduction to Historic Preservation Certifications and Information Collection is adopted
2 under temporary procedures as follows:

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5 **07 NCAC 04R .0920 INTRODUCTION TO HISTORIC PRESERVATION CERTIFICATIONS AND**
6 **INFORMATION COLLECTION**

7 (a) Ordinarily, only the fee-simple owner of the property in question may apply for the historic preservation
8 certifications described in Rules .0921 and .0923 in this Section. If an application for a certification is made by
9 someone other than the fee-simple owner, however, the application must be accompanied by a written statement from
10 the fee-simple owner indicating that he or she is aware of the application and has no objection to the request for
11 certification.

12 (b) Owners of properties which are not yet individually listed in the National Register of Historic Places or which are
13 in areas that are not yet National Register or certified historic districts may obtain certifications from the SHPO on
14 whether or not rehabilitation proposals meet the "Standards for Rehabilitation" and proceed with the rehabilitation
15 prior to the listing of the individual property or district in the National Register. Because final certifications of
16 rehabilitation ~~will~~ shall be issued only to owners of certified historic structures, properties must be individually listed
17 in the National Register or be located within National Register or certified historic districts by the time a request for
18 final certification is submitted to the SHPO. ~~Similarly, if a property is located in a National Register or certified~~
19 historic district but outside the district's period of significance, the National Register nomination or certification report
20 for the district must be amended to expand the period of significance by the time a request for final certification is
21 submitted to the SHPO.

22 (c) If a property is located in a National Register or certified historic district but outside the district's period of
23 significance, the National Register nomination or certification report for the district must be amended to expand the
24 period of significance by the time a request for final certification is submitted to the SHPO.

25 ~~(c)~~ (d) Applications for certifications of proposed rehabilitation, historic significance, and completed rehabilitation
26 as set forth by Rules .0921 and 0923 of this Section shall be submitted on the Historic Preservation Certification
27 Application. Two copies of the application and supporting documentation such as photographs and plans are
28 required. The applicant may obtain a preliminary and non-binding determination of a property's historic significance
29 within a National Register or certified historic district prior to undertaking a rehabilitation project.

30 ~~(d)~~ (e) Applications are available from the ~~HPO.~~ HPO at the following website: www.hpo.ncdcr.gov.

31 ~~(e)~~ (f) Requests for certifications and approvals of proposed rehabilitation projects shall be ~~sent~~ mailed to the
32 ~~HPO.~~ HPO at the following address: Attention: Tax Credit Coordinator, 109 East Jones Street, Raleigh, NC 27601.

33 ~~(f)~~ (g) Where ~~adequate~~ documentation as defined in Rules .0921 and .0923 of this Section is not provided, the
34 owner will be notified in writing of the additional information needed to undertake or complete the review. At such
35 time the application shall be placed on hold pending the receipt of complete information. If complete information is
36 not received within 30 days from the date of the request to the owner, the application shall be returned to the owner
37 due to insufficient documentation.

1 ~~(g)~~ (h) Approval of applications and amendments to applications shall be conveyed to the owner only in writing by
2 the SHPO or his/her his or her duly authorized representative. Decisions with respect to certifications shall be made
3 on the basis of the descriptions contained in the application forms and other ~~available information.~~ documentation
4 as defined in Rule .0923(a)(1) of this Section. In the event of any discrepancy between the application and other
5 supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant
6 shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description
7 in the application shall take precedence.

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9 *History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;*

10 *Temporary Adoption Eff. January 1, 2016.*

1 07 NCAC 04R. 0921 Certifications of Historic Significance is adopted under temporary procedures as follows:

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4 **07 NCAC 04R .0921 CERTIFICATIONS OF HISTORIC SIGNIFICANCE**

5 (a) Requests for determinations of historic significance for properties within National Register or certified historic
6 districts shall be made to the HPO by the owner to determine:

7 (1) that a property located within a National Register or a certified historic district contributes to the
8 historic significance to the district and is, therefore, a "certified historic structure"; or

9 (2) that a property located within a National Register or certified historic district is not of historic
10 significance to the district.

11 (b) The owner may contact the HPO to determine whether or not a property is individually listed in the National
12 Register of Historic Places or is located within a National Register or certified historic district.

13 (c) If a property is located within the boundaries of a National Register or certified historic district and the owner
14 seeks certification by the SHPO that the property contributes to the historic significance of the district, the owner must
15 provide the following documentation for determination of historic significance and submit it with the request for final
16 certification:

17 (1) Name and address of ~~[property.]~~ property;

18 (2) Current photographs of property including photographs of the building and its site and landscape
19 features; photograph(s) showing the property along with adjacent properties and structures on the
20 street; and photographs of interior features and spaces adequate to document ~~[significance.]~~
21 significance;

22 (3) Brief written description of physical appearance including distinctive features and spaces, any
23 alterations, and date(s) of ~~[construction.]~~ construction;

24 (4) Brief statement of significance summarizing how the property does or does not reflect the values
25 that give the district its distinctive historical and visual character, and explaining any significance
26 attached to the property itself (e.g., unusual building techniques, important event that took place
27 there, ~~[ete-].~~ etc.); and

28 (5) Map of the historic district clearly delineating property's location within the district.

29 (d) Properties in National Register or certified historic districts containing more than one building where the buildings
30 are judged by the SHPO to have been functionally related historically to serve an overall purpose, such as a mill
31 complex or a residence and carriage house, shall be treated as a single certified historic structure when rehabilitated
32 as part of an overall project. Buildings that are functionally related historically are those which have functioned
33 together to serve an overall purpose during the property's period of significance. An evaluation shall be made to
34 determine whether the component buildings contribute to the historic significance of the property and whether the
35 property contributes to the significance of the historic district.

36 (e) If a building is to be moved as part of a rehabilitation for which certification is sought, the owner must follow the
37 procedures outlined in this Paragraph. When a building is moved, every effort shall be made to re-establish its historic

1 orientation, immediate setting, and general environment. Moving a building within a National Register or certified
2 historic district may result in denial of a certification of historic ~~[significance.]~~ significance if it does not meet the
3 requirements of the Code of Federal Regulations, 36 CFR 60 and 36 CFR 67.4(h).

4 ~~(1)~~ Documentation must be submitted that demonstrates:

5 (A) the effect of the move on the building's integrity and appearance (any demolition, changes
6 in foundations, etc.);

7 (B) photographs of the original site and general environment of the new site;

8 (C) evidence that the new site does not possess historical significance that would be adversely
9 affected by the moved building;

10 (D) the effect of the move on the distinctive historical and visual character of the district, where
11 applicable; and

12 (E) the method of moving the building.

13 ~~{(2)}~~ (1) If an owner moves a building into a National Register or certified historic district or moves
14 a building elsewhere within a district, the required information described in Subparagraph ~~[(e)(1)]~~
15 (e)(2) of this Rule shall be included. The moved building shall be evaluated to determine if it
16 contributes to the historic significance of the district both before and after the move as in Paragraph
17 (f) of this Rule. The owner may obtain a preliminary and non-binding determination that a building
18 proposed to be moved will contribute to the historic significance of the district after the move.

19 (2) Documentation must be submitted that demonstrates:

20 (A) the effect of the move on the building's integrity and appearance (any demolition, changes
21 in foundations, etc.);

22 (B) photographs of the original site and general environment of the new site;

23 (C) evidence that the new site does not possess historical significance that would be adversely
24 affected by the moved building;

25 (D) the effect of the move on the distinctive historical and visual character of the district, where
26 applicable; and

27 (E) the method of moving the building.

28 (f) Properties within National Register or certified historic districts shall be evaluated to determine if they contribute
29 to the historic significance of the district by application of the "Standards for Evaluating Significance within National
30 Register or Certified Historic Districts" as set forth in Rule .0922 of this Section.

31 (g) Once the significance of a property located within a National Register or certified historic district has been
32 determined by the SHPO, written notification shall be sent to the owner.

34 *History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;*

35 *Temporary Adoption Eff. January 1, 2016.*

1 07 NCAC 04R.0922 Standards for Evaluating Significance Within National Register or Certified Historic
2 Districts is adopted under temporary procedures as follows:

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5 **07 NCAC 04R.0922 STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL**
6 **REGISTER OR CERTIFIED HISTORIC DISTRICTS**

7 (a) Properties located within National Register or certified historic districts shall be reviewed by the SHPO to
8 determine if they contribute to the historic significance of the district by applying the following Standards for
9 Evaluating Significance within National Register or Certified Historic ~~Districts.~~ Districts:

10 (1) A building contributing to the historic significance of a district is one which by location, design,
11 setting, materials, workmanship, feeling, and association adds to the district's sense of time and
12 place and historical ~~development.~~ development;

13 (2) A building not contributing to the historic significance of a district is one which does not add to the
14 district's sense of time and place and historical development; or one where the location, design,
15 setting, materials, workmanship, feeling, and association have been so altered or have so
16 deteriorated that the overall integrity of the building has been irretrievably ~~lost.~~ lost; and

17 (3) Ordinarily buildings that have been built within the past 50 years do not meet the National Register
18 Criteria for Evaluation and are not considered to contribute to the significance of a
19 district. Buildings less than 50 years old are considered to contribute to the significance of a district
20 if the period of significance specified in the National Register nomination (or Certified Historic
21 District designation report) includes the date of the building, or if the nomination (or designation
22 report) establishes that the building individually meets the National Register Criteria Exception for
23 properties less than 50 years old.

24 (b) If non-historic surface material obscures a facade, ~~it may be necessary for~~ the owner ~~to~~ shall remove the surface
25 material as part of the rehabilitation so that a determination of significance in accord with the Code of Federal
26 Regulations, 36 CFR 67.5(e), can be made. If the previously obscured facade has retained substantial historic integrity
27 and the property otherwise contributes to the historic district, it will be determined to be a certified historic structure.

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29 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;

30 Temporary Adoption Eff. January 1, 2016.

1 07 NCAC 04R. 0923 Certifications of Rehabilitation is adopted under temporary procedures as follows:

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4 **07 NCAC 04R .0923 CERTIFICATIONS OF REHABILITATION**

5 (a) Owners who want rehabilitation projects for certified historic structures to be certified by the SHPO as being
6 consistent with the "Standards for Rehabilitation" shall comply with the procedures and application components of
7 ~~listed in~~ this Rule.

8 (1) To initiate review of a rehabilitation project for certification purposes, an owner shall submit an
9 application to the SHPO. In all cases, ~~documentation, including~~ photographs adequate to
10 document the appearance of the structure(s), both on the exterior and on the interior, and its site and
11 environment prior to rehabilitation ~~must~~ shall accompany the application. The social security or
12 taxpayer identification number(s) of all owners ~~must~~ shall be provided in the application. Other
13 ~~documentation, such as cleaning specifications, surveys of window conditions, or documentation~~
14 ~~of deterioration, may~~ documentation items shall be required by the SHPO to evaluate rehabilitation
15 ~~projects.~~ to clarify components of the application. Plans for any attached, adjacent, or related new
16 construction ~~must~~ shall also accompany the application. Because the circumstances of each
17 rehabilitation project are unique to the particular certified historic structure involved, certifications
18 that may have been granted to other rehabilitations are not specifically applicable and may not be
19 relied on by owners as applicable to their ~~projects.~~ projects; and

20 (2) A project does not become a certified rehabilitation until it is completed by the owner and certified
21 by the SHPO. ~~The~~ As part of the application the owner shall submit the request for final
22 certification as defined in this Rule and provide the project completion date and a signed statement
23 that the completed rehabilitation project meets the "Standards for Rehabilitation" and is consistent
24 with project work previously approved. Also required in requesting certification of a completed
25 rehabilitation project are costs attributed to the rehabilitation, photographs adequate to document
26 the completed rehabilitation, and the social security or taxpayer identification number(s) of all
27 owners.

28 (b) A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified
29 historic structure(s) and its site and environment ~~as determined by the SHPO,~~ as well as related demolition, new
30 construction or rehabilitation work which may affect the historic qualities, integrity or landscape features, and
31 environment of the certified historic structure(s). More specific considerations in this regard are as follows:

32 (1) In order to receive certification, all elements of the rehabilitation project must meet the "Standards
33 for Rehabilitation." Portions of the rehabilitation project not in conformance with the "Standards
34 for Rehabilitation" shall not be exempted and certification shall be denied. An owner undertaking
35 a rehabilitation project shall not be held responsible for prior work not part of the current project
36 and undertaken prior to January 1, 2016. An owner undertaking a rehabilitation project shall not be
37 held responsible for work that was undertaken by previous owners or third parties, who have no

1 business or immediate family relationship to the owner either at the time of the previous work or at
2 the time the application is made.

3 (2) If the SHPO has reason to believe that a project submitted for certification does not include the
4 entire rehabilitation project subject to review hereunder, the SHPO may choose to withhold a
5 decision on such a certification until such time as the proper scope of the rehabilitation project to be
6 reviewed has been determined. Factors to be taken into account by the SHPO in this regard include,
7 but are not limited to, the facts and circumstance of each application, and:

8 (A) whether previous demolition, construction, or rehabilitation work irrespective of
9 ownership or control at the time was in fact undertaken as part of the rehabilitation project
10 for which certification is ~~sought,~~ sought; and

11 (B) whether property conveyances, reconfigurations, ostensible ownership transfers, or other
12 transactions were transactions which purportedly limit the scope of a rehabilitation project
13 for the purpose of review by the SHPO without substantially altering beneficial ownership
14 or control of the property. The fact that a property may still qualify as a certified historic
15 structure after having undergone inappropriate rehabilitation, construction, or demolition
16 work as defined by the "Standards for Rehabilitation" does not preclude the SHPO from
17 determining that such inappropriate work is part of the rehabilitation project to be
18 reviewed.

19 (3) Conformance to the "Standards for Rehabilitation" shall be determined on the basis of the
20 application documentation and other available information by evaluating the property as it existed
21 prior to the commencement of the rehabilitation project.

22 (4) For rehabilitation projects involving more than one certified historic structure where the structures
23 are judged by the SHPO to have been functionally related historically to serve an overall purpose,
24 such as a mill complex or a residence and carriage house, rehabilitation certification shall be issued
25 on the merits of the overall project rather than for each structure or individual component. For
26 rehabilitation projects where there is no historic functional relationship among the structures, the
27 certification decision shall be made for each separate certified historic structure regardless of how
28 they are grouped for ownership or development purposes.

29 (5) Demolition of a building as part of a rehabilitation project involving multiple buildings may result
30 in denial of certification of the rehabilitation. In projects where there is no historic functional
31 relationship among the structures being rehabilitated, related new construction which physically
32 expands one certified historic structure undergoing rehabilitation and, therefore, directly causes the
33 demolition of an adjacent structure will generally result in denial of certification of the rehabilitation
34 unless a determination has been made that the building to be demolished is not a certified historic
35 structure. In rehabilitation projects where the structures have been determined to be functionally
36 related historically, demolition of a component may be approved, in limited circumstances, when:

37 (A) the component is outside the period of significance of the property;

- 1 (B) the component is so deteriorated or altered that its integrity has been irretrievably lost; or
2 (C) the component is a secondary one that generally lacks historic, engineering, or architectural
3 significance or does not occupy a major portion of the site and persuasive evidence is
4 present to show that retention of the component is not technically or economically feasible.

5 (6) In situations involving the rehabilitation of a certified historic structure in a historic district, the
6 SHPO shall review the rehabilitation project first as it affects the certified historic structure and
7 second as it affects the district and make a certification decision accordingly.

8 (7) In the event that an owner of a portion of a certified historic structure requests certification for a
9 rehabilitation project related only to that portion of the structure, but there is or was a larger related
10 rehabilitation project(s) occurring with respect to other portions of the certified historic structure,
11 the SHPO's decision on the requested certification shall be based on review of the overall
12 rehabilitation project(s) for the certified historic structure.

13 (c) Upon receipt of a complete application describing the rehabilitation project, the SHPO shall determine if the
14 project is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for
15 Rehabilitation," the owner shall be advised of that fact in writing and, where possible, shall be advised of necessary
16 revisions, in the form of conditions that will bring the proposed rehabilitation project into compliance with the
17 Standards.

18 (d) Once a proposed project has been approved, [substantive] changes in the work as described in the application
19 must be brought promptly to the attention of the SHPO by written statement to ensure continued conformance to
20 the Standards. The SHPO shall notify the owner in writing whether the revised project continues to meet the
21 Standards. Oral approvals of revisions are not authorized or valid.

22 (e) Completed projects may be inspected by the HPO to determine if the work meets the "Standards for
23 Rehabilitation."

24 (f) If a completed rehabilitation project does not meet the "Standards for Rehabilitation," an explanatory letter from
25 the SHPO or [his/her] his or her duly authorized representative shall be sent to the owner. ~~If a property was not~~
26 ~~rehabilitated in conformance with the "Standards for Rehabilitation" and the nonconforming work appears to have~~
27 ~~resulted in the loss of the qualities for which the property or the district in which it is located was listed in the National~~
28 ~~Register, the SHPO, as administrator of the National Register program in North Carolina, shall notify the National~~
29 ~~Register of Historic Places in accord with the Code of Federal Regulations.~~

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31 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;

32 Temporary Adoption Eff. January 1, 2016.
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1 07 NCAC 04R. 0924 Standards for Rehabilitation is adopted under temporary procedures as follows:

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4 **07 NCAC 04R .0924 STANDARDS FOR REHABILITATION**

5 (a) The North Carolina Historical Commission interprets the "Standards for Rehabilitation" to require that the quality
6 of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials
7 and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials
8 by their physical properties, may cause or accelerate physical deterioration of historic buildings. ~~[Inappropriate]~~
9 Improper physical treatments include, but are not limited to: damaging masonry repointing techniques; exterior
10 cleaning methods such as sandblasting or damaging water pressure; or the introduction of sealers or "non-breathable"
11 materials on masonry surfaces, insulation, storm windows, and epoxy where the application of such treatments or
12 materials does not conform to NPS Guidelines for Rehabilitating Historic Buildings and NPS "Preservation
13 Briefs." ~~[Nonconforming]~~ Improper use of these materials and treatments may result in denial of
14 certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent
15 that they compromise the historic character of the structure shall result in denial of certification. The NPS Guidelines
16 for Rehabilitating Historic Buildings and NPS "Preservation Briefs" can be found at the following website:
17 www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm and www.nps.gov/tps/education/free-pubs.htm.

18 Other typical denial issues in which the historic integrity of the structure is compromised include but are not limited
19 to the following: ~~[removal of character defining historic exterior/interior materials and features such as doors,~~
20 ~~windows, woodwork, and significant landscape features; excessive site paving; installing undocumented or non-period~~
21 ~~features; excessive alteration of exterior/interior features or spaces; removal of plaster from interior masonry walls to~~
22 ~~expose underlying masonry surface; installation of inappropriate replacement doors and windows such as metal or~~
23 ~~vinyl clad windows in place of wood windows; replacement of non-deteriorated or repairable materials such as~~
24 ~~windows or millwork; painting unpainted masonry surfaces; installation of artificial siding.]~~

25 (1) removal of character defining historic exterior/interior materials and features such as doors, windows,
26 woodwork, and significant landscape features;

27 (2) excessive site paving; installing undocumented or non-period features; excessive alteration of
28 exterior/interior features or spaces; removal of plaster from interior masonry walls to expose underlying
29 masonry surface;

30 (3) installation of inappropriate replacement doors and windows such as metal or vinyl clad windows in
31 place of wood windows; and

32 (4) replacement of non-deteriorated or repairable materials such as windows or millwork; painting
33 unpainted masonry surfaces; installation of artificial siding.

34 (b) In limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize
35 and repair weakened structural members and systems. In such cases, the SHPO shall consider such extreme
36 intervention as part of a certified rehabilitation if:

37 (1) the necessity for dismantling is justified in supporting documentation;

- 1 (2) significant architectural features and overall design are retained; and
2 (3) adequate historic materials are retained to maintain the architectural and historic integrity of the
3 overall structure. The "Standards for Rehabilitation" require retention of distinguishing historic
4 materials of external and internal walls as well as structural systems. In limited instances,
5 rehabilitations involving removal of existing external walls, i.e., external walls that detract from the
6 historic character of the structure such as in the case of a nonsignificant later addition or walls that
7 have lost their structural integrity due to deterioration, may be certified as meeting the "Standards
8 for Rehabilitation."

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10 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;

11 Temporary Adoption Eff. January 1, 2016.

07 NCAC 04R. 0925 Fees for Processing Rehabilitation Certification Requests is adopted under temporary procedures as follows:

07 NCAC 04R .0925 FEES FOR PROCESSING REHABILITATION CERTIFICATION REQUESTS

(a) The North Carolina Department of Natural and Cultural Resources shall charge fees for reviewing income-producing and nonincome-producing rehabilitation certification requests in accordance with the schedule below, in Paragraph (e) of this Rule.

(b) Payment shall be made payable to: North Carolina Department of Natural and Cultural Resources. A certification decision by the State Historic Preservation Office shall not be issued on an application until the appropriate remittance is received by the department. Fees are nonrefundable.

(c) No fee shall be charged for rehabilitations under twenty five thousand dollars (\$25,000).

(d) The fee for review of proposed rehabilitation projects over twenty five thousand dollars (\$25,000) is two hundred fifty dollars (\$250.00). The initial fee for review of a proposed rehabilitation project shall be deducted from the final review fee.

(e) The fees for review of completed rehabilitation projects are based on the dollar amount of the costs attributed solely to the rehabilitation of the certified historic structure as provided by the owner in the Historic Preservation Certification Application, Request for Certification of Completed Work, in accordance with the schedule below.

<u>Completed Qualifying Rehabilitation Expenditures</u>	<u>Fee</u>
<u>\$10,000 - \$24,999</u>	<u>\$0</u>
<u>\$25,000 - \$49,999</u>	<u>\$250</u>
<u>\$50,000 - \$99,999</u>	<u>\$500</u>
<u>\$100,000 - \$149,999</u>	<u>\$750</u>
<u>\$150,000 - \$199,999</u>	<u>\$1,000</u>
<u>\$200,000 - \$299,999</u>	<u>\$1,250</u>
<u>\$300,000 - \$399,999</u>	<u>\$1,750</u>
<u>\$400,000 - \$499,999</u>	<u>\$2,250</u>
<u>\$500,000 - \$999,999</u>	<u>\$2,750</u>
<u>\$1,000,000 - \$4,999,999</u>	<u>\$5,250</u>
<u>\$5,000,000 or more</u>	<u>\$7,750</u>

(f) In the following cases the fee for preliminary review is two hundred fifty dollars (\$250.00) and the fee for final review is computed on the basis of the total completed qualifying rehabilitation expenditures.

- (1) In the case of a rehabilitation project which includes more than one certified historic structure where the structures are judged by the reviewing authority to have been functionally related historically to serve an overall purpose; or

- 1 (2) In the case of multiple building projects where:
2 (A) there is no historic functional relationship among the structures and which are under the
3 same ownership;
4 (B) are located in the same historic district;
5 (C) are adjacent or contiguous;
6 (D) are of the same architectural type (e.g., rowhouses, loft buildings, commercial buildings);
7 and
8 (E) are submitted by the owner for review at the same time.

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10 History Note: Authority G.S. 105-129.100; 105-129.101; 105-129.102;
11 Temporary Adoption Eff. January 1, 2016.