

Chapter 100.

Monuments, Memorials and Parks.

Article 1.

Approval and Protection of Monuments, Memorials, Works of Art, etc.

§ 100-1. Repealed by Session Laws 1973, c. 476, s. 48.

§ 100-2. Approval of memorials before acceptance by State; "work of art" defined.

A monument, memorial, or work of art may not become the property of the State by purchase, gift or otherwise, unless the monument, memorial, or work of art, or a design of the same, together with the proposed location of the same, is submitted to and approved by the North Carolina Historical Commission. A monument, memorial, or work of art, until so submitted and approved, may not be contracted for, placed in or upon, or allowed to extend over any property belonging to the State. The term "work of art" as used in this Article includes any painting, portrait, mural decoration, stained glass, statue, bas-relief, sculpture, tablet, fountain, or other article or structure of a permanent character intended for decoration or commemoration. (1941, c. 341, s. 2; 1957, c. 65, s. 11; 1973, c. 476, s. 48; c. 507, s. 5; c. 1262, s. 86; 1977, c. 771, s. 4; 1979, 2nd Sess., c. 1306, ss. 3, 4; 1989, c. 727, s. 218(27); 1997-443, s. 11A.119(a); 2015-170, s. 3(b); 2015-241, s. 14.30(c), (s), (u).)

§ 100-2.1. Protection of monuments, memorials, and works of art.

(a) Approval Required. – Except as otherwise provided in subsection (b) of this section, a monument, memorial, or work of art owned by the State may not be removed, relocated, or altered in any way without the approval of the North Carolina Historical Commission.

(b) Limitations on Removal. – An object of remembrance located on public property may not be permanently removed and may only be relocated, whether temporarily or permanently, under the circumstances listed in this subsection and subject to the limitations in this subsection. An object of remembrance that is temporarily relocated shall be returned to its original location within 90 days of completion of the project that required its temporary removal. An object of remembrance that is permanently relocated shall be relocated to a site of similar prominence, honor, visibility, availability, and access that are within the boundaries of the jurisdiction from which it was relocated. An object of remembrance may not be relocated to a museum, cemetery, or mausoleum unless it was originally placed at such a location. As used in this section, the term "object of remembrance" means a monument, memorial, plaque, statue, marker, or display of a permanent character that commemorates an event, a person, or military service that is part of North Carolina's history. The circumstances under which an object of remembrance may be relocated are either of the following:

- (1) When appropriate measures are required by the State or a political subdivision of the State to preserve the object.
 - (2) When necessary for construction, renovation, or reconfiguration of buildings, open spaces, parking, or transportation projects.
- (c) Exceptions. – This section does not apply to the following:
- (1) Highway markers set up by the Board of Transportation in cooperation with the Department of Environmental Quality and the Department of Natural and Cultural Resources as provided by Chapter 197 of the Public Laws of 1935.

- (2) An object of remembrance owned by a private party that is located on public property and that is the subject of a legal agreement between the private party and the State or a political subdivision of the State governing the removal or relocation of the object.
- (3) An object of remembrance for which a building inspector or similar official has determined poses a threat to public safety because of an unsafe or dangerous condition. (2015-170, s. 3(c); 2015-241, s. 14.30(c).)

§ 100-3. Approval of design, etc., of certain bridges and other structures.

No bridge, arch, gate, fence or other structure intended primarily for ornamental or memorial purposes and which is paid for either wholly or in part by appropriation from the State treasury, or which is to be placed on or allowed to extend over any property belonging to the State, shall be begun unless the design and proposed location thereof shall have been submitted to the North Carolina Historical Commission and approved by it. Furthermore, no existing structures of the kind named and described in the preceding part of this section owned by the State, shall be removed or remodeled without submission of the plans therefor to the North Carolina Historical Commission and approval of said plans by the North Carolina Historical Commission. This section shall not be construed as amending or repealing Chapter 197 of the Public Laws of 1935. (1941, c. 341, s. 3; 1973, c. 476, s. 48; 1979, 2nd Sess., c. 1306, s. 3.)

§ 100-4. Governor to accept works of art approved by North Carolina Historical Commission.

The Governor of North Carolina is hereby authorized to accept, in the name of the State of North Carolina, gifts to the State of works of art as defined in G.S. 100-2. But no work of art shall be so accepted unless and until the same shall have been first submitted to the North Carolina Historical Commission and by it judged worthy of acceptance. (1941, c. 341, s. 4; 1973, c. 476, s. 48; 1979, 2nd Sess., c. 1306, s. 3.)

§ 100-5. Duties as to buildings erected or remodeled by State.

Upon request of the Governor and the Board of Public Buildings and Grounds, the North Carolina Historical Commission shall act in an advisory capacity relative to the artistic character of any building constructed, erected, or remodeled by the State. The term "building" as used in this section shall include structures intended for human occupation, and also bridges, arches, gates, walls, or other permanent structures of any character not intended primarily for purposes of decoration or commemoration. (1941, c. 341, s. 5; 1973, c. 476, s. 48; 1979, 2nd Sess., c. 1306, s. 3.)

§ 100-6. Disqualification to vote on work of art, etc.; vacancy.

Any member of the North Carolina Historical Commission who shall be employed by the State to execute a work of art or structure of any kind requiring submission to the North Carolina Historical Commission, or who shall take part in a competition for such work of art or structure, shall be disqualified from voting thereon, and the temporary vacancy thereby created may be filled by appointment by the Governor. (1941, c. 341, s. 6; 1973, c. 476, s. 48; 1979, 2nd Sess., c. 1306, s. 3.)

§ 100-7. Construction.

The provisions of this Article shall not be construed to include exhibits of an educational nature arranged by museums or art galleries administered by the State or any of its agencies or institutions, or to prevent the placing of portraits of officials, officers, or employees of the State in the offices or buildings of the departments, agencies, or institutions with which such officials, officers, or employees are or have been connected. But upon request of such museums or agencies, the North Carolina Historical Commission shall act in an advisory capacity as to the artistic qualities and appropriations of memorial exhibits or works of art submitted to it. (1941, c. 341, s. 7; 1973, c. 476, s. 48; 1979, 2nd Sess., c. 1306, s. 3.)

§ 100-8. Memorials to persons within 25 years of death; acceptance of commemorative funds for useful work.

No monument, statue, tablet, painting, or other article or structure of a permanent nature intended primarily to commemorate any person or persons shall be purchased from State funds or shall be placed in or upon or allowed to extend over State property within 25 years after the death of the person or persons so commemorated: Provided, nevertheless, that nothing in this Article shall be interpreted as prohibiting the acceptance of funds by State agencies or institutions from individuals or societies who wish to commemorate some person or persons by providing funds for educational, health, charitable, or other useful work. The agency or institution to which such funds are offered for memorial enterprises shall exercise its discretion as to the acceptance and expenditure of such funds. Nothing in this Article shall be interpreted as prohibiting the erection on the lands of the Cliffs of the Neuse State Park an appropriate tablet or plaque honoring the life and memory of the late Lionel Weil of Wayne County. Nothing in this Article shall be interpreted as prohibiting the erection on the lands of the Morrow Mountain State Park an appropriate tablet or plaque honoring the life and memory of the late James McKnight Morrow of Stanly County. Nothing in this Article shall be interpreted as prohibiting the erection on the lands of the Cliffs of the Neuse State Park an appropriate tablet or plaque, of such size and containing such language, as may be agreed upon by the donors and Director of State Parks, honoring the Whitfield heirs for their contributions to the establishment of the said park. (1941, c. 341, s. 8; 1957, c. 181; 1961, c. 976; 1963, c. 1128; 1979, 2nd Sess., c. 1306, s. 4.)

Article 2.

Memorials Financed by Counties and Cities.

§ 100-9. County commissioners may protect monuments.

When any monument has been or shall hereafter be erected to the memory of our Confederate dead or to perpetuate the memory and virtues of our distinguished dead, if such monument is erected by the voluntary subscription of the people and is placed on the courthouse square, the board of county commissioners of such county are permitted to expend from the public funds of the county an amount sufficient to erect a substantial iron fence around such monument in order that the same may be protected. (1905, c. 457; Rev., s. 3928; C.S., s. 6934.)

§ 100-10. Counties, cities, and towns may contribute toward erection of memorials.

Any county, city or town by resolution first adopted by its governing body may become a member of any memorial association or organization for perpetuating the memory of the soldiers and sailors of North Carolina who served the United States in the great World War, or in the global war known as World War II, or who fought in the War Between the States, and may subscribe and

pay toward the cost of the erection of any memorial to the memory of such soldiers and sailors such sums of money as its governing body may determine, and may be represented in such association or organization by such persons as its governing body may select. Any contribution so made shall be paid out of the general fund of such county, city, or town making same, on such terms as may be agreed upon by its governing body, and the officers having the control and management of the association or organization to which subscription and contribution are made. (1919, c. 21, ss. 1, 2, 3; C.S., s. 6938; 1923, c. 200; 1945, c. 117.)

Article 3.

Mount Mitchell Park.

§ 100-11. Duties.

The Department of Natural and Cultural Resources shall have complete control, care, protection and charge of that part of Mitchell's Park acquired by the State. (1915, c. 76; 1919, c. 316, s. 3; C.S., s. 6940; 1921, c. 222, s. 1; 1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 218(28); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(w).)

§ 100-12. Roads, trails, and fences authorized; protection of property.

The Department of Natural and Cultural Resources is authorized and empowered to enter upon the land hereinbefore referred to, and to build a fence or fences around the same, also roads, paths, and trails and protect the property against trespass and fire and injury of any and all kinds whatsoever; cut wood and timber upon the same, but only for the purpose of protecting the other timber thereon and improving the property generally. (1919, c. 316, s. 5; C.S., s. 6942; 1921, c. 222, s. 1; 1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 218(29); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(w).)

§ 100-13. Fees for use of improvements; fees for other privileges; leases; rules.

The Department of Natural and Cultural Resources is further authorized to charge and collect fees for the use of such improvements as have already been constructed, or may hereafter be constructed, on the park, and for other privileges connected with the full use of the park by the public; to lease sites for camps, houses, hotels, and places of amusement and business; and to make and enforce such necessary rules as may best tend to protect, preserve and increase the value and attractiveness of the park. (1921, c. 222, s. 2; C.S., s. 6942(a); 1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 25; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(w).)

§ 100-14. Use of fees and other collections.

All fees and other money collected and received by the Department of Natural and Cultural Resources in connection with its proper administration of the North Carolina State Parks System shall be used by said Department for the administration, protection, improvement, and maintenance of the State Parks System. (1921, c. 22, s. 3; C.S., s. 6942(b); 1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 26; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(w).)

§ 100-15. Annual reports.

The Department shall make an annual report to the Governor of all money received and expended by it in the administration of the North Carolina State Parks System, and of such other

items as may be called for by him or by the General Assembly. (1921, c. 222, s. 4; C.S., s. 6942(c); 1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 27.)

Article 4.

Toll Roads or Bridges in Public Parks.

§ 100-16. Private operation of toll roads or bridges in public parks prohibited.

No person, firm or corporation shall have the right or privilege to privately operate any toll road or toll bridge in this State upon lands belonging to the State, set apart or designated as a public park.

In the event any such toll road or bridge is on March 17, 1939 being privately operated under any real or assumed right, privilege, or lease, the State institution or department having such state-owned property in charge or under its supervision shall immediately give notice to such person, firm or corporation so operating such toll road or toll bridge to discontinue the operation of the same.

Any person, firm or corporation who sustains any legal damage by reason of the exercise of the authority hereinbefore granted shall be entitled to just compensation therefor, and, in the event satisfactory settlement cannot be made with the department or State agency exercising the authority herein contained, the amount of just compensation may be determined by a special proceeding instituted by the claimant against the department or agency having such property in custody under the provisions of the Chapter on Eminent Domain, insofar as the same may be applicable hereto: Provided, such proceedings shall be instituted within six months from the time such notice is given. Any compensation awarded shall be a valid claim against the State of North Carolina, payable out of the funds of the department or State agency having such property in charge. (1939, c. 127.)

Article 5.

Flagpoles and Display of Flags in State Parks.

§ 100-17. Flagpole to be erected in each State park.

At each of the State parks of North Carolina an adequate flagpole shall be erected, in keeping with the construction of other structures thereupon, upon which flags of the United States of America and the State of North Carolina may be flown. (1963, c. 317, s. 1.)

§ 100-18. Display of flags.

Where personnel are available upon the State parks, the flags of the United States and of the State of North Carolina shall be flown on every Saturday and Sunday and on every State holiday from May 1 to October 1 of each year, in conformity with appropriate national and State policy and procedures concerning the display of the State and federal flag. (1963, c. 317, s. 2.)

§ 100-19. Donation of flagpoles.

Flagpoles at State parks may be donated by donors of the lands upon which State parks are situated, and if such donors express a desire to donate flagpoles, such donations shall be accepted in preference to that of any other individual or group. In the event that the donors of the lands upon which the State parks are situated shall not indicate a desire to donate flagpoles therefor within

six months of the date of the passage of this Article, donations for flagpoles shall be accepted from individuals or groups who may desire to make such donations and erect the said flagpoles in keeping with the State park regulations. (1963, c. 317, s. 3.)