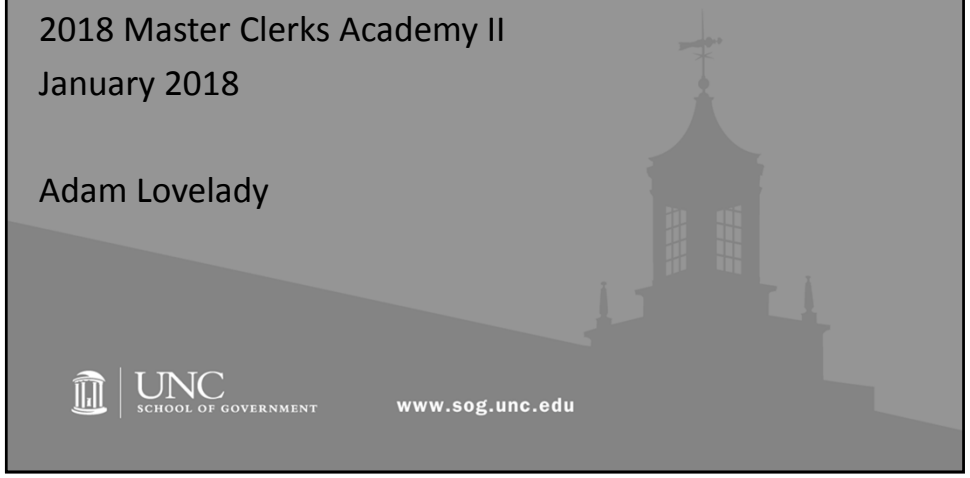
Monuments on Public Property

Legal and Practical Issues

2018 Master Clerks Academy II

January 2018

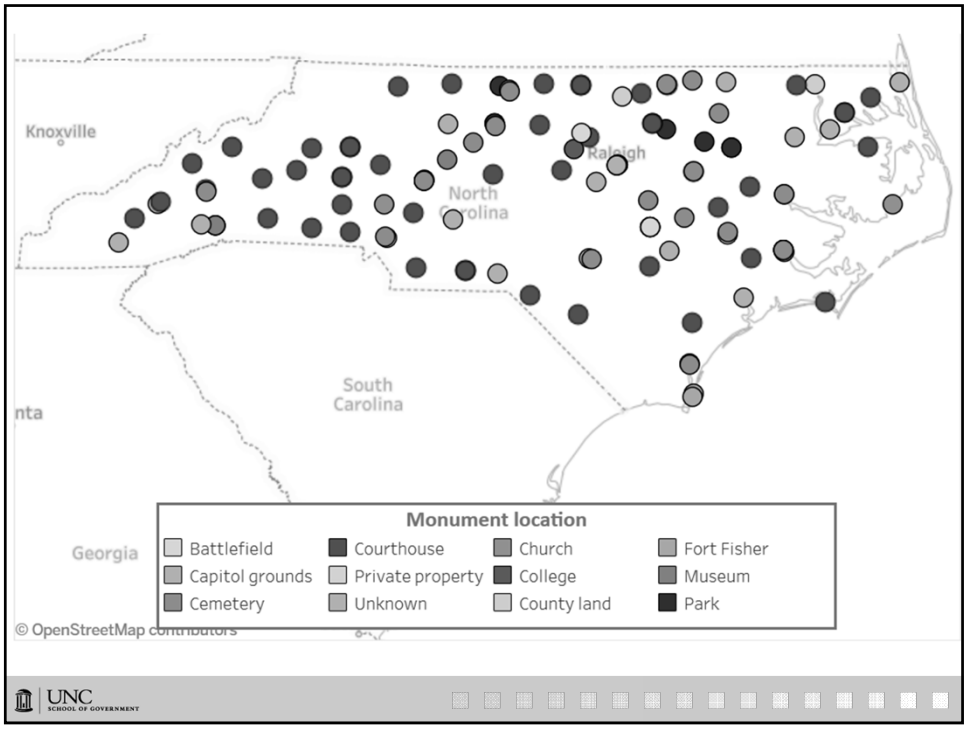
Adam Lovelady



UNC SCHOOL OF GOVERNMENT www.sog.unc.edu

Outline

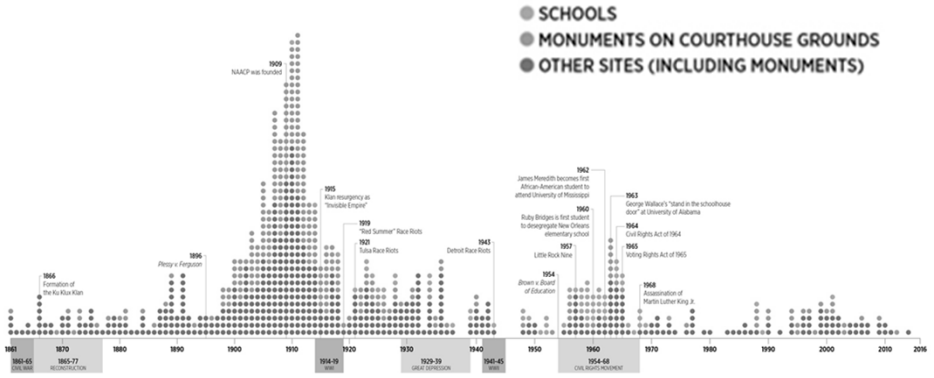
- Background on Statues
- Legal Limits for NC Local Governments
- Additional Considerations



Jackson County Courthouse

Currituck County Courthouse & Alamance County Courthouse

Old Cabarrus County Courthouse



Southern Poverty Law Center

Unity Monument,
Bennett Place

Massachusetts Monument,
New Bern National Cemetery

United States Colored Troops
Monument, Hertford

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Scott Threlkeld/AP

Edu Bayer for The New York Times

Monuments or statutes removed or relocated

- Annapolis, MD
- Austin, TX
- Baltimore, MD
- Bradenton, FL
- Brooklyn, NY
- Dallas, TX
- Daytona Beach, FL
- Durham, NC
- Franklin, OH
- Gainesville, FL
- Helena, MT
- Kansas City, MO
- Lexington, KY
- Los Angeles, CA
- Louisville, KY
- Madison, WI
- Memphis, TN
- Nashville, TN
- New Orleans, LA
- New York, NY
- Orlando, FL
- Rockville, MD
- San Diego, CA
- San Antonio, TX
- St. Louis, MO
- St. Petersburg, FL
- Washington, DC
- Worthington, OH

Discussions Under Way

- Houston, TX
- Atlanta, GA
- Nashville, TN
- Pensacola, FL
- Jacksonville, FL
- Richmond, VA
- Birmingham, AL
- Charlottesville, VA

Chris Carbone, "Which Confederate statues were removed running list," Fox News, Dec. 24, 2017, http://www.foxnews.com/us/2017/12/24/which-confederate-statues-were-removed-running-list.html

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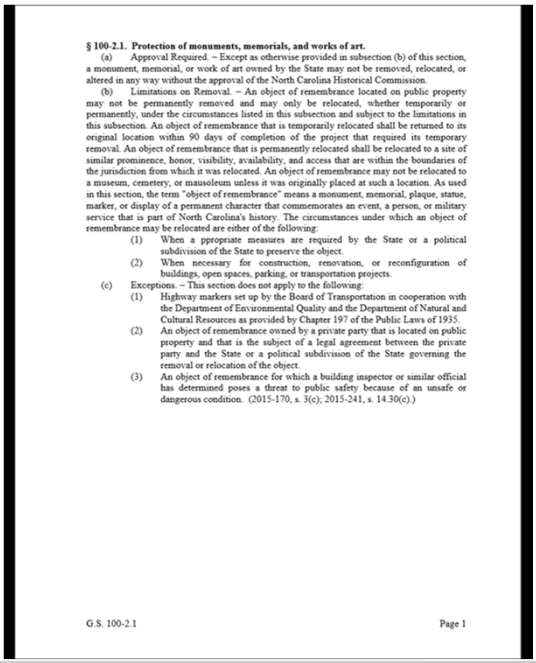

§ 100-2.1. Protection of monuments, memorials, and works of art.

(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 a ppropriate 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).)

G.S. 100-2.1 Page 1

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Prohibit Removal, Limit Relocation

"An object of remembrance located on public property may not be permanently removed and may only be relocated . . . under the circumstances listed in this subsection . . . ."

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"Object of Remembrance"

"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."

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Relocation Allowed . . .

(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.

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Temporary Relocation

"shall be returned to its original location within 90 days of completion of the project that required its temporary removal."

Permanent Relocation

"shall be relocated to a site of similar prominence, honor, visibility, availability, and access that are within the boundaries of the jurisdiction"

May only relocate to a museum, cemetery, mausoleum if the object was originally placed at such location

Exceptions

(1) NCDOT highway markers

(2) Privately-owned object of remembrance on public property (if subject to an agreement on removal or relocation of the object)

(3) Object that a building inspector or similar official has determined poses a threat to public safety because of an unsafe or dangerous condition.

State Approval?

"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."

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Alterations?

- State-owned objects "may not be removed, relocated, or altered in any way" with state approval
- Locally-owned objects may not be removed and may only be relocated under limited circumstances
- Arguably, there is room for local government to cover, adding explanatory plaques, or situate other objects around it
- Local government could relocate "to preserve the object" so likely authority to cover "to preserve the object"
- BUT, too much alteration arguably would remove the "remembrance" from the object

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Other "Objects"?

"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."

Streets and Street Signs?

Questions

https://www.sog.unc.edu/resources/microsites/planning-and-development-regulation

https://canons.sog.unc.edu/

www.sog.unc.edu