



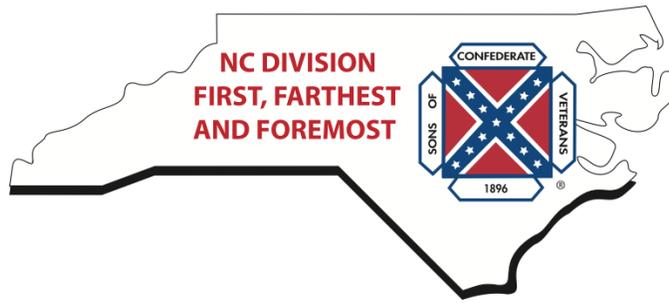
**FOR IMMEDIATE RELEASE**  
**June 28, 2020**

Attached is communication the North Carolina Division Sons of Confederate Veterans sent to numerous North Carolina municipalities that have or are discussing violating the North Carolina Heritage Protection Act.

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Press Spokesman  
North Carolina Division Sons of Confederate Veterans

**FURTHER PRESS INQUIRIES MAY BE DIRECTED TO**  
**NCSCVPUBLICAFFAIRS@GMAIL.COM**

June 23, 2020



Communication to local municipalities and government units:

It has come to our attention that you are considering the removal of the monument in your municipality / county honoring North Carolinians who fought and died for this state and for the Confederate States of America during the American War Between the States.

After consulting with legal counsel, we wish to remind you that under North Carolina law, specifically, under Chapter 100 of the North Carolina General Statutes, related to “**Monuments, Memorials and Parks**[,]” which is commonly referred to as the Heritage Protection Act or the “HPA,” it is unlawful to remove Confederate monuments (or any object which includes monuments) from public spaces. In short, a local government must follow the requirements of this law and keep the Confederate monuments currently where they are, with very limited exceptions.

As you are aware, on July 23, 2015, the General Assembly, with overwhelming bi-partisan support and with almost no objection, enacted the Cultural History Artifact Management and Patriotism Act of 2015. (See 2015 North Carolina Laws S.L. 2015-170 (S.B. 22)). As is relevant here, the substantive provision of the Act is codified as N.C. Gen. Stat. § 100-2.1, and places clear restrictions on the removal and relocation of statues and memorials located on public lands. In its entirety, the Statute provides as follows:

- (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 law 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.

As set forth above, the HPA establishes grounds for removal and relocation of monuments that are exceedingly narrow. See the University of North Carolina Law Review note by Kasi E. Wahlers; *North Carolina's Heritage Protection Act: Cementing Confederate Monuments in North Carolina's Landscape*, 94 N.C. L. Rev. at 2176, p. 2185 (2016), which states "...the [HPA] effectively prohibits any object of remembrance from being permanently removed, and it only permits relocation in two narrow circumstances;" The author also notes "[w]hen considering the way the statute operates as opposed to how it appears on its face, the North Carolina HPA is functionally a complete prohibition of monument removal." *Id.* at 2188-89.

Pursuant to the HPA, the only circumstances under law which permit the temporary removal of an object of remembrance (e.g. monuments) as outlined above, are set forth under subsections (b)(1) and (b)(2). From the plain and unambiguous statutory language set forth therein, there appears no viable argument related to any action regarding the removal of the monument located within your jurisdiction, as your locality is a subdivision of the State of North Carolina. Moreover, relocation is intended to be temporary to preserve and protect monuments during construction and other related activities.

However, among the three listed exceptions set forth under the law, subsection (c)(3), does permit removal of a monument (e.g. object of remembrance) only when "...[the] 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.*" (Emphasis added to original). It is this exception which is now used as a rationale for removing monuments due to violent protests and criminal activity. But unlike the analysis with respect to subsection (b) requiring preservation, subsection (c)(3)'s reference to "public safety" and "dangerous condition" are

doubtful rationale in relation to violent protests and the like. Unfortunately, this argument was employed by Governor Cooper this past Saturday, as a pretense to remove the Confederate Monuments on the Capitol Square in Raleigh. We understand that a number of communities around the State may be inspired to act in the same manner. Nevertheless, the clear language of subsection (c)(3) specifically limits removal due to the physical condition (e.g., weakness, decay, etc.) of a monument, which has been verified by a building inspector or other official inspector. This does not permit an exception to the law based on exterior threats by violent protesters, rioters or vandals.

This clear legal interpretation was confirmed in a judgment entered by the North Carolina Historical Commission, the body with exclusive jurisdiction under the HPA or “Monuments Law” related to temporary or permanent removal of monuments owned by the state or political subdivision of the state, at a formal commission meeting held on August 22, 2018. At that meeting it examined a proposal from Governor Cooper incorporating that incorrect interpretation to relocate the three Confederate monuments from the State Capitol grounds. Interestingly, the vote supporting the correct interpretation of the HPA, and against Governor Cooper, was a 9 to 2 decision, which included support from members of the Commission appointed by the governor. And the monuments remained in place legally until the Monuments Law was violated by Governor Cooper’s order.

We sincerely stress that actions taken in derogation of the law because of violent mobs, rioters, protestors or vandals cannot be supported. In this case, the law clearly supports the monuments remaining in place. Please understand we wish to work with localities within the state, but we do ask that they abide by the controlling principle in our republic, that if laws passed by a state legislature are ignored, then the mob controls thereby making ineffectual the rule of law. Accordingly, it is up to you to ensure law enforcement protects the monuments located within your jurisdiction as required under N.C. Gen. Stat. § 100-2.1

Further, the State and its political subdivisions have an obligation to hold all of those who act in a lawless manner, whether in direct violation of the HPA or other state laws — accountable. As we are a nation of laws, there is a prohibition against rewarding those who willingly break such laws by failing to enforce the very laws they violate. If local governments wish to move these statues, they need to either present their case before the North Carolina Historical Commission or work to have the law changed. We respectfully ask you not ignore the law or cynically attempt to say the law allows action that it clearly does not.

Respectfully submitted,

**NORTH CAROLINA DIVISION**  
**SONS OF CONFEDERATE VETERANS, INC.**  
*A North Carolina non-profit corporation*