

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT [§1](#)

[Sec. 1300. Findings; intent.](#)

[Sec. 1301. Establishment.](#)

[Sec. 1302. Applicability of regulations.](#)

[Sec. 1303. Certificates of appropriateness.](#)

[Sec. 1304. Special rules for demolition.](#)

[Sec. 1305. General certificate of appropriateness for specified classes or cases.](#)

[Sec. 1306. Conditional uses.](#)

[Sec. 1307. Historical review board; historic preservation commission.](#)

Sec. 1300. Findings; intent.

(a) The city council finds that:

- (1) The historical and cultural heritage of the city is embodied by buildings, structures and sites that are unique resources of high value to current and future generations of the city, the Commonwealth of Virginia, and the nation;
- (2) The city has many historic and cultural resources that are significant by reason of the people and events that are associated with them or the special architectural character they embody;
- (3) The historical and cultural foundations of the city should be preserved as a living part of our community life and development;
- (4) The preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational and economic energy benefits will be maintained and enriched for future generations of the city residents;
- (5) The increased knowledge of our historic and cultural resources, the establishment of improved means of identifying and administering them, and the encouragement of their preservation will enhance the planning and execution of historic preservation projects and will enhance tourism and economic growth and development;
- (6) The deterioration, destruction, relocation, or alteration of historic and cultural resources may cause the permanent loss of these unique resources; therefore, special measures are warranted in order to preserve the historic and cultural resources of the city; and
- (7) The use of responsible and innovative methods for implementing the Comprehensive Plan's goal of protecting our historic and cultural resources, as allowed by applicable provisions of the Virginia Code, will encourage the recognition and protection of the architectural and cultural history of the city through the identification, preservation and enhancement of historically, culturally, architecturally or archaeologically significant buildings, structures, places and areas.

(b) It is the intent the city council in adopting this article to:

- (1) Protect the historic significance and integrity of the properties within historic and cultural districts that are or may be recognized for their association with historic events that have made a significant contribution to our history; are associated with historically significant persons;

APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

possess distinctive characteristics of a type, period, or method of construction or that represent the work of a master, possess high artistic values; or have the potential to yield significant archaeological or historical information;

- (2) Promote tourism and enhance local business and industry by protecting historical, architectural, archaeological and cultural resources;
- (3) Encourage sound stewardship of the city's historic resources and foster a sense of place in the city's residents;
- (4) Preserve and protect buildings, structures and properties which serve as visible reminders of the historic, cultural, and architectural or archaeological heritage of the City of Virginia Beach, the Commonwealth of Virginia, or the United States; and
- (5) Assure that, within the city's historic and cultural districts, new structures, additions, landscaping and related elements will be in harmony with their setting and environs.

(Ord. No. 3319, 12-3-13)

Sec. 1301. Establishment.

- (a) In accordance with the provisions of City Code section 2-5, the historic preservation commission shall advise city council on the consideration of the need for establishing or expanding an Historic and Cultural District in a specified geographical area of the city. In rendering such advice to the city council, the commission shall give due consideration to the views of owners of property being considered for inclusion in such new or expanded district.
- (b) Prior to the establishment or expansion of a Historic and Cultural District, the planning director shall prepare, in writing, a report containing: (i) an inventory of all landmarks, buildings and other structures, sites and objects being considered for inclusion within the proposed district, (ii) recommendations, if any, for detailed zoning and other regulations to be applied within the district, and (iii) a listing of the criteria to be used to determine which properties shall be included within the district. The planning director shall seek the advice and guidance of the historic preservation commission in preparing such report and shall give due consideration to the views of owners of property being considered for inclusion in such new or expanded district.
- (c) No Historic and Cultural District shall be established or expanded unless the area to be encompassed thereby contains one or more places or buildings or other structures:
 - (1) Listed on the Virginia Landmarks Register, the Virginia Beach Historical Register, or the National Register of Historic Places;
 - (2) That are of significant historic, architectural, archaeological or cultural interest;
 - (3) In which historic events occurred; or
 - (4) That have special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the city that are of such significance as to warrant conservation and preservation.
- (d) Only the geographical area in which a majority of the properties meet the criteria established in accordance with this section shall be designated as a Historic and Cultural District; provided, however, that parcels of land contiguous to arterial streets or highways found by the city council to be significant routes of tourist access to the city or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality, may also be included in a Historic and Cultural District.

APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

- (e) The planning commission shall review the report of the planning director, together with the ordinance establishing or expanding a Historic and Cultural District and any proposed zoning and other regulations to be applied within the district, and shall recommend to the city council approval in whole or in part, with or without modifications, or shall recommend rejection thereof.
- (f) The city council may, by ordinance, establish or expand a Historic and Cultural District if it finds that the proposed district or expansion thereof meets the requirements of this section, and may adopt such zoning or other regulations pertaining to property within the district, consistent with general law, as it may deem appropriate. The city council shall give due consideration to the views of owners of property being considered for inclusion in such new or expanded district. Upon city council approval of a new or expanded Historic and Cultural District, the official zoning map shall be amended accordingly.
- (g) The establishment or expansion of Historic and Cultural Districts shall be subject to the applicable provisions of section 107 of the city zoning ordinance and Code of Virginia, Tit. 15.2, Ch. 22, Art. 7 (Virginia Code Sections 15.2-2280 et seq.), as amended, or any successor ordinances or statutes.

(Ord. No. 3319, 12-3-13)

Sec. 1302. Applicability of regulations.

In addition to the regulations set forth in the ordinance creating the Historic and Cultural District, the underlying regulations of the zoning district within which the Historic and Cultural District area is situated shall apply; provided that, except as provided in section 1306, if any conflict occurs, the more restrictive provision shall apply. In addition thereto, development within a Historic and Cultural District shall be subject to the provisions of this article.

(Ord. No. 3319, 12-3-13)

Sec. 1303. Certificates of appropriateness.

- (a) *Requirements of certificates of appropriateness.* Except as provided in subsection (e), no building or structure, including signs, within a Historic and Cultural District shall be constructed, altered, repaired, relocated or demolished, and no building or other required permit authorizing such action, shall be issued unless and until the historical review board has issued a certificate of appropriateness therefor. A certificate of appropriateness shall certify only that the requirements of this section have been met, and shall not excuse compliance with any other applicable requirements of law.
- (b) *Materials to be submitted for review.*
 - (1) *Required plans, etc.* The historical review board may require submission of any or all of the following materials as part of an application: architectural plans, site plans, landscaping plans, proposed signs with appropriate details as to location, size, number and character, proposed exterior lighting arrangements, elevation drawings, indications as to construction materials, design of doors and windows, ornamentation and colors, photographs or perspective drawings indicating visual relationship to adjoining structures and spaces and such other exhibits and reports as are reasonably necessary in making its determination to grant or deny the certificate of appropriateness.
 - (2) *Application review.* Applications for a certificate of appropriateness shall be submitted to the planning director, who shall determine whether the proposed building or structure conforms to the requirements of the city zoning ordinance. No application shall be deemed complete unless it contains sufficient information for the planning director to make such determination.

APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

(c) *Grounds for issuance and denial of certificate of appropriateness.*

- (1) *Issuance.* The historical review board shall issue a certificate of appropriateness only if it finds that the proposed building or structure is architecturally compatible with the historic landmarks, buildings or structures in the district. In issuing its approval, the board may attach such reasonable conditions, consistent with applicable city ordinances and development standards, as are necessary or appropriate to ensure that the proposed building or structure meets the requirements of this section.

The board shall consider, in determining whether a proposed building or structure is architecturally compatible with the historic landmarks, buildings and structures in the district, the following factors:

- A. The conformity with the design, development standards, and criteria established for the district pursuant to section 1301
 - B. The appropriateness of the general overall design of the proposed building or structure in relation to the architecture of other building or structures within the historic-cultural overlay zoning district;
 - C. The extent to which the proposed building or structure will be harmonious or incompatible with the other buildings or structures in the district;
 - D. The degree to which the proposed building or structure advances the Comprehensive Plan's goals;
 - E. The impact of the proposed building or structure upon the historic context;
 - F. The degree to which the proposed building or structure conforms to applicable provisions of the Secretary of the Interior's Standards for Rehabilitation, as set forth in Title 36, Section 67.7 of the Code of Federal Regulations, or any successor regulations, not inconsistent with the provisions of this section.
- (2) *Denial; appeals.* The historic review board shall state the reasons for denial in writing. The applicant for the certificate of appropriateness may appeal a denial of such certificate to the city council by letter filed with the planning director stating the grounds for appeal no later than thirty (30) days after the date of the denial.
- (3) *Notice of appeal.* Upon receipt of such letter, the planning director shall schedule the appeal to be heard by the city council at a regular meeting and shall give written notice of the time, date and place of the city council meeting to the applicant, or his agent, and any persons who submitted to the planning director written objections to the application, no less than twenty-one (21) days before the meeting. The applicant shall post a sign provided by the planning director on the property, which sign shall state the time and date of the city council meeting and the nature of the appeal, at least fifteen (15) days prior to the city council meeting at which the matter is scheduled. Such sign shall be posted in accordance with the provisions of section 108(a) of the city zoning ordinance. No further public notice shall be required.
- (4) *Appeals to the circuit court.* The applicant, and any person appearing before the city council in opposition to the application, may appeal the decision of the city council to the circuit court by filing a petition at law, setting forth the alleged illegality of the action of the city council, provided the petition is filed within thirty (30) days after the date of the city council's decision. The filing of the petition shall stay the decision of the city council pending the outcome of the appeal to the court, unless the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the city council, in whole or in part, if it finds upon review that such decision is contrary to law or is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

- (5) *Time limits.* The board shall approve or deny a certificate of appropriateness within ninety (90) days from the filing of a completed application. The failure to approve or deny an application shall constitute a denial thereof.
- (d) *Demolition.* In the event the historical review board determines that the preservation of a building or structure is found to be physically or economically unfeasible, it shall issue the certificate of appropriateness allowing the demolition of such building or structure. If the preservation of such building or structure is physically and economically feasible, the board shall deny the application. In the event the application is denied, the applicant may: (i) appeal such decision to the city council by letter filed with the planning director stating the grounds for appeal no later than thirty (30) days after the date of the denial; or (ii) elect to proceed pursuant to the provisions of section 1304. The procedure for appeals to the city council shall be in accordance with subdivision (3). The city council may, after consultation with the board, affirm or deny the board's decision. In the event the city council affirms the decision of the board, the applicant shall have the right to appeal such decision to the circuit court in accordance with the procedures set forth in subdivision (4).
- (e) *Exceptions.* The following actions shall not require the issuance of a certificate of appropriateness:
- (1) Repainting resulting in the same or like color, provided that the initial painting of masonry surfaces shall require a certificate of appropriateness;
 - (2) The addition or deletion of windows, storm windows, doors, and storm doors that match existing windows, storm windows, doors, storm doors and broken window panes, and the addition or removal of air conditioning units;
 - (3) The addition or deletion of television or radio antennas, skylights, solar collectors, wind energy conversion systems or satellite dishes if such structures are not visible from a public street or right-of-way;
 - (4) The repair of existing materials and features with equivalent material through stabilization, consolidation and conservation of historic materials, features and workmanship when the physical condition of a building or structure, or portion thereof, has deteriorated;
 - (5) Planting of grass, trees and shrubs, but not including landscape treatment that substantially alters the contour of a landmark site;
 - (6) Permitted outside storage in any residential, office, business, or industrial district, which is not visible from a public street; and
 - (7) Any interior changes.

(Ord. No. 3319, 12-3-13)

Sec. 1304. Special rules for demolition.

- (a) In addition to the right of appeal set forth in section 1303, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the city council for such right, (ii) the owner has for the period of time set forth in subsection (c) and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the city or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

- CODE
APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

- (b) Any appeal which may be taken from the decision of the city council, whether instituted by the owner or by any other proper party, notwithstanding the provisions of section 1303 relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one (1) year after a final decision by the city council, but thereafter the owner may renew his request to the city council to approve the razing or demolition of the historic landmark, building or structure.
- (c) The time schedule for offers to sell shall be as follows: three (3) months when the offering price is less than \$25,000; four (4) months when the offering price is \$25,000 or more but less than \$40,000; five (5) months when the offering price is \$40,000 or more but less than \$55,000; six (6) months when the offering price is \$55,000 or more but less than \$75,000; seven (7) months when the offering price is \$75,000 or more but less than \$90,000; and twelve (12) months when the offering price is \$90,000 or more.

(Ord. No. 3319, 12-3-13)

Sec. 1305. General certificate of appropriateness for specified classes or cases.

Notwithstanding any other provision of this article, if the historical review board determines that particular materials or designs or architectural or other structural characteristics are generally architecturally compatible with a district, it may issue a general certificate of appropriateness under specifications approved by the board, and building permits consistent with such general certificate of appropriateness may be issued if all other applicable requirements of law are met.

(Ord. No. 3319, 12-3-13)

Sec. 1306. Conditional uses.

- (a) In order to promote the preservation of historic structures, the following uses shall be permitted within the historic and cultural district, regardless of the underlying zoning district classification, if authorized by a conditional use permit. A conditional use permit may be granted only if the city council finds that the operation of the use will not produce adverse impacts, such as excess traffic, noise or on-street parking demand, upon the surrounding area:
 - (1) Bed and breakfast inns;
 - (2) Antique shops;
 - (3) Museums and art galleries;
 - (4) Specialty shops; and
 - (5) Offices of nonprofit organizations.
- (b) No conditional use permit shall be required for any such use allowed as a principal use in the zoning district underlying the historic and cultural district unless living quarters are provided.

(Ord. No. 3319, 12-3-13)

Sec. 1307. Historical review board; historic preservation commission.

- (a) *Historical review board.* The historical review board shall have the duties set forth in this article, or any successor ordinance, and such other duties as the city council may from time to time prescribe.

- CODE
APPENDIX A - ZONING ORDINANCE

ARTICLE 13. HISTORIC AND CULTURAL DISTRICT

- (b) *Historic preservation commission.* The historic preservation commission shall have the duties set forth in City Code section 2-5, as amended June 12, 2012, and as may be amended further from time to time.

(Ord. No. 3319, 12-3-13)

FOOTNOTE(S):

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Editor's note— Ord. No. 3319, adopted December 3, 2013, repealed the former Art. 13, §§ 1300—1305, and enacted a new Art. 13 as set out herein. The former Art. 13 pertained to similar subject matter. See Code Comparative Table for complete derivation. ([Back](#))