

## **Article VIII - Historic District Overlay**

*“The Cape Charles Historic District encompasses nearly all of the town of Cape Charles as it was originally laid out in 1883-1884 as well as the Sea Cottage addition, an area west of the original limits of the town, that was developed after 1909...The town was originally laid out in an unusual twenty-seven block grid pattern dominated by a central park with four landscaped streets that radiate from the park and serve as a main cross axis for the town’s circulation pattern. No other such plan is known to exist in Virginia.”*  
- 1989 National Register of Historic Places Registration Form Section 7, page 1.

*“An interesting stock of architectural styles in both the residential area and the downtown commercial area contribute an historic style and authenticity. The street patterns, lot configurations and boundaries, which were laid out in a historic grid pattern, have remained largely unaltered, adding to the Town’s historical integrity. Cape Charles’ late nineteenth and early twentieth century character is a key element in the Town’s interest and attractiveness to tourists. The traditional downtown commercial area on Mason Avenue still serves as the commercial center for the Town. It is important that the Town’s historic character be protected, not only for its intrinsic value, but also to contribute to attract and expand tourism in Cape Charles.”* – Town of Cape Charles 1999 Comprehensive Plan, page 40.

The Town of Cape Charles participates in the Certified Local Government program and in doing so demonstrates a commitment to keep what is significant from the past for the benefit of future generations. The architectural integrity of existing structures shall be recognized, and future development shall be compatible.

### ***Section 8.1: Purpose of the District***

The purpose of this district is to guard against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of registered architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is also the purpose of the district to preserve the character of the designated historic areas and historic landmarks and other historic or architectural features and to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the historic district.

### ***Section 8.2: Criteria for Establishing Historic Districts - General Character***

The boundaries of the Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.

***Section 8.3: Inventory of Landmarks and Contributing Properties Established***

The Town of Cape Charles has established as part of this ordinance a map covering the area included in the Historic District, based on the criteria set forth in this ordinance. This map shall be as much a part of this ordinance as if fully described herein. Pending further amendment of this ordinance, the period of significance for the Town will be from 1883 to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019). As identified in the National Register, structures or sites designated as properties which contribute to the historic character of the Town shall be known as contributing properties for the purpose of this Ordinance. Structures or sites not designated as landmark or contributing properties shall be known as noncontributing properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as noncontributing. The map may be amended from time to time in the same manner as the zoning district map.

***Section 8.4: Application of the District; Relation to Other Zoning Districts***

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the Historic District is created as a special district to be superimposed on other districts contained in these regulations and is to be designated by a special symbol for its boundaries on the Zoning District Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the Historic District is superimposed except as these other district regulations may be modified by application of the regulations in the Historic District.

***Section 8.5: Permitted Uses***

A building or land shall be used only for any use or accessory use permitted in the zoning district in which the premises are situated and upon which the Historic District is superimposed.

***Section 8.6: Historic District Review Board; Creation***

For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is created a board known as the Historic District Review Board.

***Section 8.7: Historic District Review Board; Membership***

The members of the Historic District Review Board shall be appointed by the Town Council. The Membership shall consist of five (5) citizens, at least three (3) of whom shall be residents of the local historic district.

***Section 8.8: Historic District Review Board; Terms***

Upon approval by the Town Council, members shall be appointed for a term of five years (5 yrs). Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

***Section 8.9: Historic District Review Board; Qualifications***

Members of the Historic District Review Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible, include a Planning Commission member, as well as professionals in the disciplines of architecture, history, historic preservation, archaeology, or related professions; and professionals in the disciplines of planning, building construction, or real estate.

***Section 8.10: Historic District Review Board; Organization***

The Historic District Review Board shall elect from its own membership a chairman and vice chairman who shall serve annual terms and may succeed themselves. The chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Board. The vice chairman shall preside over meetings of the Board in the absence of the chairman.

***Section 8.11: Historic District Review Board; Rules***

The Board shall meet in regular session on the third (3<sup>rd</sup>) Tuesday of every month when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

***Section 8.12: Historic District Review Board; Meetings; Hearings***

Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the Commonwealth of Virginia.

***Section 8.13: Historic District Review Board; Procedures***

The Board shall, with the concurrence of the town manager, establish procedures for all matters coming before it for review, and all meetings shall be open to the public. The Board will have the right to appeal decisions of the town manager to the Town Council.

***Section 8.14: Historic District Review Board; Powers and Duties***

The Zoning Administrator will review all applications to determine the proper level of review and compliance with the Cape Charles Zoning Ordinance. The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district. In addition, the Board shall have the

following duties:

- A. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites and buildings or other properties in the historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.
- B. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- C. To oversee studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.
- D. To propose additional historic districts or additions or deletions to districts.
- E. To recommend standards and guidelines for adoption by the Town Council to supplement the standards set forth in this Ordinance; the currently adopted guidelines are called “Cape Charles Historic District Guidelines revised October 2017.”
- F. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- G. To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve the character of historic landmarks, buildings, sites, or areas within the Town.

#### ***Section 8.15: Summary of Administration Review Procedures***

~~In general~~, It is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District. **Therefore, the Zoning Administrator will review all applications to determine the proper level of review and compliance with the Cape Charles Zoning Ordinance.**

- A. Actions related to “Standards” will be exclusively the purview of the Zoning Administrator.
- B. Actions addressed by “Guidelines” will be the purview of the Historic District Review Board, except that guidelines that are relatively straightforward may be delegated to the Zoning Administrator at the discretion of the Historic District Review Board.
- C. In all cases the decisions of the Zoning Administrator shall be appealed to the

Board of Zoning Appeals as stated in §2-2.6.2.C, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

***Section 8.16: Approval of Historic District Review Board Required***

- ~~A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.~~
- ~~B. Contributing accessory structures will be treated as contributing structures only under the following conditions:~~
- ~~1. It is on a permanent foundation; and~~
  - ~~2. It is of sufficient square footage that a new structure of that type would require a building permit; and it is not being used as, or being considered for, Accessory Dwelling Units.~~
- ~~C. "Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein:~~
- ~~1. General examples of "non-substantial" alterations:~~
    - ~~a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or~~
    - ~~b. To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.~~
  - ~~2. Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.~~
  - ~~3. General examples of work constituting "substantial alterations" include:~~
    - ~~a. Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.~~
    - ~~b. Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.~~
    - ~~c. Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.~~

- ~~d. Addition to or removal of one (1) or more stories or alteration of a roofline.~~
- ~~e. Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district.~~

~~D. In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.~~

***Section 8.17: Certain Minor Actions Exempted from Review by the Historic District Review Board***

~~Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which, in the opinion of the Zoning Administrator, will have no more effect on the character of the district than those listed:~~

- ~~A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)~~
- ~~B. Replacement of missing or broken windowpanes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.~~
- ~~C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).~~
- ~~D. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, fencing immediately surrounding trash receptacles or outdoor ventilation units, small fountains, outdoor showers, and ponds which will not substantially affect the character of the property and its surroundings.~~
- ~~E. Construction of off-street loading areas and off-street parking areas.~~
- ~~F. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.~~
- ~~G. Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not to be considered public places.~~
- ~~H. Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance.~~

- ~~I. Receiving historic preservation tax credits through state or federal offices.~~
- ~~J. Demolition of non-contributing buildings or structures.~~
- K. ~~Alterations or repairs made to a building or structure for the purpose of temporary emergency stabilization.~~

#### ***Section 8.16: Description of Proposed Work***

Changes proposed to a property within the Historic District fall into one of the following categories. The nature of the work will determine whether the change proposed requires the department or Historic District Review Board (HDRB) approval. Not every project requires a property owner to obtain a Certificate of Appropriateness (COA). There are three (3) basic categories for projects: Routine Maintenance, Minor Work, and Major Work. The property owner must confirm with the department that the project is consistent with the appropriate work level. The following will give a brief description of each and indicate whether a COA is required by either staff or HDRB.

- A. **\*Routine Maintenance** items are types of exterior work that keep the property in good condition. Such projects include any repair where no change is made to the appearance of the structure or site.

Routine Maintenance may not require the issuance of a COA by staff or the HDRB. The property owner must check with the department that the project is consistent with routine maintenance. At the discretion of the department, an application for routine maintenance may be forwarded to the HDRB if the work is questionable as to whether it is consistent with the Cape Charles Historic Overlay District Design Guidelines (HDODG).

- B. **\*Minor Work** projects do not substantially alter the visual character of the structure or site.

Minor Work projects require an application and issuance of a COA. They may be approved by the department if the proposed work is consistent with the HDODG. If the department does not approve the application or if the work is questionable as to whether it is consistent with the HDODG, an application for minor work may be forwarded to the HDRB.

- C. **\*Major Work** projects that involve change in the appearance of a building or site and are more substantial than routine maintenance or minor projects. They include changes from the original design or material, or replacement, alteration, or removal of an original feature.

Major Work projects require an application and issuance of a COA by the HDRB.

\*A detailed Classification of Work Chart can be found in Appendix G of the Cape Charles Historic Overlay District Design Guidelines.

\*The property owner must schedule an inspection if required in the Cape Charles Historic Overlay District Design Guidelines Appendix G Classification of Work Chart.

***Section 8.17: Declaration of Unsafe or Dangerous Conditions***

Nothing in this Ordinance shall be construed to prevent any measures necessary to correct an unsafe or dangerous condition of a property in the Historic District. Temporary measures may be taken as directed by the Zoning Administrator and Code Official without obtaining a Certificate of Appropriateness.

***Section 8.18: Delegation of Authority***

- A. The Zoning Administrator or Code Official shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic District Review Board in any case where the action has an adverse effect on the Historic District.
- B. The Historic District Review Board shall periodically review the design guidelines contained in this section.

***Section 8.19: Certificate of Appropriateness***

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued on behalf of the Historic District Review Board, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board or the Zoning Administrator. The Historic District Review Board may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

***Section 8.20: Design Guidelines; Recommendations for Review***

The intent of the guidelines is to ensure that changes within the district are compatible with the district's historic and architectural character.

- A. The Historic District Review Board shall be guided in its decisions by the design guidelines but must also use independent judgement and discretion to consider the unique characteristics of each request. The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district. The board shall utilize the pre-application review process as defined in §8.25 (A).
- B. It shall be the duty of the Historic District Review Board to prepare recommended amendments to the design guidelines.
- C. The Town Council shall adopt and amend the design guidelines after

conducting at least one public hearing pursuant to [§15.2-2204](#) of the Code of Virginia.

- D. Separate guidelines shall be developed for all new infill buildings in Cape Charles' historic district. New infill construction will not diminish, detract, or distract from the character of surrounding historic buildings or the overall historic district.
- E. Alterations and additions to non-contributing structures that affect the exterior appearance of the structure or additions should be compatible with the district following the guidelines for new (infill) construction. Criteria for non-contributing structures may be less restrictive than that applied to contributing structures.

***Section 8.21 Demolition: Alternate Procedure: Offer to Sell***

- A. Prior to approval of any application for demolition, razing, moving, or removal of a contributing structure within the Cape Charles Historic District; the zoning administrator, the Historic District Review Board, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.
  - 1. Whether or not the contributing structure is of such architectural or historic interest that its removal would be to the detriment of the character and integrity of the Historic District.
  - 2. Whether or not the contributing structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.
  - 3. Whether or not retention of the contributing structure would help to preserve and protect a historic place or area of historic interest in the Town.
  - 4. Whether or not plans for future use of the site after demolition are appropriate, compatible, sympathetic, and complimentary to the character and integrity of the Historic District.

No subsequent application under §8.21 (A) regarding the contributing structure may be made until more than one year (1 yr) after a final denial by the Town Council.

- B. In addition to the right of appeal herein elsewhere set forth, the owner of a contributing structure in the Cape Charles Historic District shall as a matter of right be entitled to raze or demolish a contributing structure provided that:
  - 1. The owner has applied to the Town Council for such right.
  - 2. The owner has for the applicable period of time set forth in the time schedule in §8.21 (B) (4), and at a price reasonably related to the fair market value of the contributing structure and the land, other improvements and appurtenances pertaining thereto (assuming the buyer will be required to preserve and restore the contributing structure in place on the property) as determined by the average of two (2) real estate appraisals from two (2) different appraisers, made a bona

fide, public offer (pursuant to the requirements of this §8.21 (B)) to sell such contributing structure, and the land, other improvements and appurtenances pertaining thereto (collectively, the "Property"), to the Town and any other person, firm, corporation, government or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the contributing structure in place. If the two (2) required real estate appraisals submitted by the Owner differ by more than ten percent (10%), the owner must have the Property appraised a third time at his own expense by a third real estate appraiser selected by the Town. The bona fide offer to sell must be at a price not more than the average of the two (2) such appraisals that are closest to one another.

3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such Property thereto, prior to the expiration of the applicable time period set forth in the time schedule in §8.21 (B) (4). Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated 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.
4. The time schedule for offers to sell shall be as follows:
  - a. Three (3) consecutive months when the offering price is less than twenty-five thousand dollars.
  - b. Four (4) consecutive months when the offering price is twenty-five thousand (\$25,000) or more but less than forty thousand dollars (\$40,000).
  - c. Five (5) consecutive months when the offering price is forty thousand (\$40,000) or more but less than fifty-five thousand dollars (\$50,000).
  - d. Six (6) consecutive months when the offering price is fifty-five thousand dollars (\$50,000) or more but less than seventy-five thousand dollars (\$75,000).
  - e. Seven (7) consecutive months when the offering price is seventy-five thousand dollars (\$75,000) or more but less than ninety thousand dollars (\$90,000).
  - f. Twelve (12) consecutive months when the offering price is ninety thousand dollars (\$90,000) or more.
5. Before making a bona fide offer to sell, the owner shall first file a statement with the Zoning Administrator along with the appraisals required by §8.21 (B) (2). The statement shall identify the Property, state the offering price, the date the offer of sale is to begin, the names and addresses of adjacent property owners, and the names and addresses of listing real estate agents, if any. The owner shall be required to maintain the Property in at least its current condition during the term of the public offer. No time period set forth in the time schedule contained in §8.21 (B) (4). shall begin to run until the statement has been filed. Within five (5) business days after receipt of a statement, copies of the statement shall be delivered by the Zoning Administrator to the Town

Manager, the Town Council, and the Historic District Review Board. Within thirty (30) days after the receipt of a statement, the Zoning Administrator: (a) shall place notice of the statement once a week for two (2) successive weeks in a newspaper having general circulation in the Town, (b) post a notice of the statement prominently on the Property, and (c) send notice of the offer, accompanied by the statement, to the adjacent property owners by certified or registered mail.

6. During the time period for the offer to sell, the Town may take steps as it deems necessary to preserve the contributing structure in accordance with the purposes of this article. Such steps may include, but are not limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of the Property by public or private bodies or agencies, and exploration of the possibility of moving structures or other features on the Property.
7. The fact that an offer to sell a property is made at a price reasonably related to fair market value as described previously may be questioned by any party who files with the Zoning Administrator, on or before sixty (60) days after the offer for sale has begun, a petition in writing signed by at least twenty-five (25) persons owning real estate within Cape Charles, questioning such valuation. Upon receipt of such a petition, one (1) disinterested real estate appraiser shall be appointed by the petitioners, and the cost of the appraisal shall be borne by the petitioners. Said appraiser shall forthwith make an appraisal of the Property on the same basis as described in §8.21 (B) (2) above, and the Town shall use the average of the lower two (2) appraisals to establish fair market value under §8.21 (B). In the event such valuation indicates that the price at which the applicant offered to sell the Property was at a price that is higher than the Property's fair market value, the offer to sell shall be void and of no force and effect for purposes of satisfying the requirements set forth in this §8.21 (B).
8. If the Town Council authorizes any such demolition or razing of said structure after the above procedures were complied with, then said demolition will proceed after applying for and obtaining approval from the Building Official.

#### ***Section 8.22: Maintenance and Repair Required***

- A. The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the Historic District allow the structure, or historic attributes of the structure, to become a hazardous building or structure. Any building or structure which is determined to be in such an unsafe condition that it would endanger life or property is governed by Town Code Chapter 18, Article III, Unsafe Buildings or Structures and under the sole jurisdiction of the Town's Code Official. The Zoning Administrator may also pursue violations of the ordinance jointly with the Town's Code Official.
- B. All buildings and structures in the Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the

extent that such decay, deterioration, or defects may, in the opinion of the Historic District Review Board and Town Council, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

1. The deterioration of exterior walls or other vertical supports, including broken doors and windowpanes;
  2. The deterioration of roofs or horizontal members;
  3. The deterioration of exterior chimneys;
  4. The deterioration or crumbling of exterior plaster, wood, or mortar;
  5. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- C. After notice by the Zoning Administrator or Code Official by certified mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Historic District Review Board, the owner or person in charge of said structure shall have ninety (90) days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Historic District Review Board may recommend to the Town Council that the Zoning Administrator, after due notice to the owner, enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property.

### ***Section 8.23: File of Actions to be Maintained***

In order to provide guidance for the consistent application of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning Administrator shall maintain a file containing a record of all applications, including drawings and photographs pertaining thereto and the decision of the Zoning Administrator or the Historic District Review Board in each case. The file documents shall be compiled by the Zoning Administrator, maintained by the Town Clerk, and remain the property of the Town but shall be held available for public review.

### ***Section 8.24: Administration; Zoning Administrator***

Except as authorized herein, the Zoning Administrator or Code Official shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition, or razing of a building or structure in the Historic District until the same has been approved by the Historic District Review Board as set forth in the following procedures.

### ***Section 8.25: Receipt of Application***

Upon receipt of an application by the Zoning Administrator for each permit in the historic district, the Zoning Administrator shall oversee the following:

- A. Pre-application review: Persons considering action that requires a certificate of appropriateness, as set forth in this ordinance, are to request an informal

informational meeting with the Zoning Administrator and at least one member of the Historic District Review Board prior to submitting a formal application for a certificate of appropriateness. Requests for such informational meetings can be made to the zoning administrator, who will contact a member of the board. The informational meeting will occur within thirty (30) days of receipt of such a request. The purpose of an informational meeting is to review the design guidelines and standards and the procedures for obtaining a certificate of appropriateness. Neither the applicant nor the zoning administrator/board member(s) shall be bound by any informational meeting or conceptual review. Zoning administrator can use discretion on the need for a pre-application meeting or the inclusion of a board representative depending on the nature of project proposed;

- B. Once accepted by the zoning administrator as a fully completed application, the zoning administrator will forward to the Historic District Review Board a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant if such application requires the Historic District Review Board to meet and render a decision;
- C. Compile a record of all such applications and of the final disposition of the same, to be maintained by the Town Clerk;
- D. Require applicants to submit one (1) hard copy and one (1) electronic version of material required to permit compliance with the foregoing.

#### ***Section 8.26: Material to be Submitted for Review***

By general rule, or by specific request in a particular case, the Historic District Review Board may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, construction methods, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in historic districts shall be accepted only from the record owner of the land involved in such proposal, or their agent.

#### ***Section 8.27: Other Approvals Required***

The Zoning Administrator will review submitted applications for Certificates of Appropriateness against appropriate zoning requirements before forwarding application to the Historic District Review Board for pre-application review and approval. In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, final action by the Board of Zoning Appeals shall precede final action by the Historic District Review Board. The Board of Zoning Appeals may, however, table a proposal in order to request the comments of the Historic District Review Board. In this case, final action by the Historic District Review Board shall be taken prior to consideration of proposals requiring site plan approval.

#### ***Section 8.28: Action by the Historic District Review Board; Issuance of Certificates of Appropriateness***

The Historic District Review Board shall render a decision upon any request or application for a Certificate of Appropriateness within ninety (90) days after the filing of an application accepted as complete. Failure of the Historic District Review Board to render such a decision within said ninety (90) day period, unless such period be extended with the concurrence of the applicant, shall entitle the applicant to proceed as if the Historic District Review Board had granted the Certificate of Appropriateness applied for prior to denying the Certificate of Appropriateness. The Historic District Review Board, on the basis of the review of information received shall, upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Historic District Review Board, would protect and/or preserve the historical aspects of the landmark, building, structure, or district. If the applicant determines that they will make the suggested changes, the Historic District Review Board may issue the Certificate of Appropriateness. Agreed to changes will be stipulated on the Certificate of Appropriateness.

All conditions required for the approval of a certificate of appropriateness will also be included on the building plan and will be reviewed by the Code Official during routine inspections.

The Zoning Administrator will be responsible for issuance of the Certificate of Appropriateness to the applicant and the Town's Code Official office within five (5) business days. Denials of applications are to be stated in writing to the applicant along with the reasons for such denials by the zoning administrator and issued within five (5) business days. Once a Certificate of Appropriateness is granted, the applicant may obtain permits to start work with the understanding that work may be stopped should an appeal be filed to the board's decision within a 30-day period following approval of the Certificate of Appropriateness, and that the applicant takes full responsibility to bear whatever consequences result from the appeal's final decision.

***Section 8.29: Expiration of Certificates of Appropriateness***

Any certificate issued pursuant to this article shall expire of its own limitation six (6) months from the date of issuance if the work authorized thereby is not commenced by the end of such six (6) month period; and further, any such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of six (6) months after being commenced. Any period or periods of time during which the right to use any such certificate is stayed pursuant to this article shall be excluded from the computation of the six (6) months.

***Section 8.30: Inspection by Administrator After Approval***

When a Certificate of Appropriateness has been issued, the Zoning Administrator or Town Building Official shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any ordinances of the Town. The Zoning Administrator or Town Building Official may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

***Section 8.31: Delay of Approval***

In the case of a proposal other than for demolition or moving but involving a

designated landmark where the Historic District Review Board or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner and whereas the Historic District Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three (3) months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Historic District Review Board or, on appeal, by the Town Council.

***Section 8.32: Conditions Imposed by the Historic District Review Board***

In approval of any proposal under this section, the Historic District Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including but not limited to, the specifications enumerated for conditional uses and for the Town Council.

***Section 8.33: Appeals; Decisions of the Historic District Review Board***

An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal; a fee equal in value to the fee paid by the property owner(s) associated with the project under appeal. The person submitting the appeal shall not be allowed to present any evidence that was not presented to the Historic District Review Board, Council members having any relevant interaction with the applicant shall disclose such interaction prior to considering the appeal. The Zoning Administrator will prepare a document of all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within sixty (60) days from the date the person submitted a request for appeal. At the hearing, the appealing party may appear in person or by an agent. In exercising its powers, the Town Council will rely solely on the written record of decision from the Historic District Review Board and will refer to the Adopted Historic District Guidelines to determine if they were appropriately applied. The Town Council, through their appeal hearing, is determining only if a procedural or application error has occurred.

***Section 8.34: Appeals; Decisions of the Zoning Administrator***

An appeal from a decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30)

days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with property owner(s) associated with the project under appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals within five (5) days all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the meeting, give public notice thereof as required pursuant to [§ 15.2-2204](#) of the Code of Virginia; and decide the same within sixty (60) days. At the meeting the party may appear in person or by agent. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify, any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made.

***Section 8.35: Appeal to the Circuit Court from a Decision of the Town Council***

An appeal from a final decision of the Town Council may be filed with the Circuit Court within thirty (30) days after said decision in the manner prescribed by law by the owner of the property in question, by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, or by the Historic District Review Board. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building, or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council.

***Section 8.36: Violations and Penalties***

Any violation of this Article and the penalties for all such violations shall be as set forth in §2.4.3 of the Zoning Ordinance.

***Section 8.37: Definitions***

For the purpose of this article, terms and words pertaining to the Historic District are defined in Appendix A of this Ordinance.