

CHAPTER 2 – THE HISTORIC LANDMARKS COMMISSION AND THE REVIEW PROCESS

A. Introduction

The renovation and rehabilitation of existing structures and construction of new structures within the Suffolk Historic Conservation Overlay District are subject to a design review process involving the Historic Landmarks Commission. Appointed by the City Council, the Commission is responsible for ensuring that work done within the district is compatible with its historic character and is consistent with acceptable preservation practices.

B. The Historic Landmarks Commission

Established pursuant to Virginia Code Section 15.2-2306, the role of the Historic Landmarks Commission is to administer the requirements of the Historic Conservation Overlay District as set forth in Section 31-413 of the Unified Development Ordinance. In this role the Historic Landmarks Commission ensures the compatibility of changes being proposed within the Historic District through the review of proposed actions, maintenance and updating of the Historic District Design Guidelines, and issuance of Certificates of Appropriateness. The Commission also advises City Council on changes to the boundaries of the Historic District and amendments to Section 31-413 of the Unified Development Ordinance.

C. Meetings of the Historic Landmarks Commission

The Historic Landmarks Commission meets the second Thursday of each month to review applications for Certificates of Appropriateness and conduct the business of the Commission. The Commission meetings are open to the public and follow a public hearing format. Ample opportunity is provided for consideration of the applications and the applicant's intent. Applicants are encouraged to be present and available for discussion and public comment. Consequently, it is expected that the applicant or his/her representative is expected to attend the scheduled public hearing. Contact the Department of Planning and Community Development for the schedule of Commission meeting dates.

D. Responsibilities of the Historic Landmarks Commission

The Historic Landmarks Commission is empowered to carry out a certain number of actions. It receives applications for changes to be made in the Historic Conservation Overlay District and must take action within 60 days of the receipt of the application. It approves applications and issues Certificates of Appropriateness for the specific action stated in the application if it finds that the proposed action is consistent with the intent of the Historic Conservation Overlay District. The Commission may also disapprove an application if it finds the proposed activities are not consistent with Section 31-413 of the Unified Development Ordinance as well as the Historic District Design Guidelines.

E. Certificate of Appropriateness

A Certificate of Appropriateness is similar to a building permit in that it is required whenever the exterior appearance of any structure in the Historic Conservation Overlay District, as viewed from any street or public way, is erected, altered, or improved. A Certificate of Appropriateness may be issued once it is determined that an application for changes to an historic property is compatible with the character of the local historic district. Any proposed action for which a Certificate of Appropriateness has been issued must commence within six months. If work has not commenced on the project within the six-month time period, an extension must be granted by the Historic Landmarks Commission or the Planning Director or his/her designee before work can commence.

F. When is a Certificate of Appropriateness Needed?

Property owners within the local historic district must obtain a Certificate of Appropriateness from the Historic Landmarks Commission or the Planning Director or his/her designee prior to getting a permit for work which affects exterior improvements and where it is visible from any street or public way, unless the proposed work is exempt from review. There are certain actions that are exempt from review under the city's Unified Development Ordinance (UDO); however, the Planning Director or his/her designee has the authority to order that work be stopped and that an application for review be filed if the action produces effects which are not compatible with prevailing character of the surroundings and the historic district (Refer to UDO Article 4, Section 31-413(g)4 for full text or contact the Planning Division with questions).

G. Certificate of Appropriateness Application

Depending on the nature of the proposed actions, all or the applicable portions of the following information may be required for an application.

- Statement of the proposed use.
- Statement of estimated construction time.
- Photographs and maps relating the proposed use to the surrounding property and/or street(s) on which it is located.
- Site Plan drawing showing the location of the existing and proposed structure(s) and site improvements.
- Architectural renderings showing plan view and elevations of new planned construction or renovations, including drawings of the original structure.
- Landscape and buffering plans.
- Proposed colors and material samples and information.
- Designs for exterior signing, lighting, and graphics, to include description of materials, colors, placement and means of physical support, lettering style, and message to be placed on signs.

Applicants are encouraged to consult with the Department of Planning and Community Development, Planning Division to determine what specific information will be necessary for an application prior to submittal.

Prior to the submission of an application for a Certification of Appropriateness, the property owner is advised to contact the Department of Planning and Community Development for a determination as to whether the proposed action requires major (Historic Landmarks Commission) or administrative review (Planning Director).

H. Incomplete Applications

Any application deemed incomplete by the either Historic Landmarks Commission or the Planning Director or his/her designee will be returned within 14 calendar days of initial application submission. The returned application shall include a letter prepared by the Planning Director or his/her designee with adequate instructions to inform the applicant of what additional information is required in order to complete the submission. The Commission will not act on an incomplete application.

I. Major Actions

The Unified Development Ordinance identifies major actions as those which constitute a permanent and detrimental change to the character of the Historic Conservation Overlay District. These include certain actions specifically identified, any actions not specifically exempted or actions, which in the opinion of the Planning Director or his/her designee meet the definition of a major action. Major actions may only be approved after a public hearing and favorable action by the Historic Landmarks Commission. Examples of major actions

include, but are not limited to the following:

- Razing, demolishing, or moving a designated landmark or contributing structure;
- Construction of a new main building at any location or construction of an accessory structure adjacent to a designated landmark;
- Any addition or substantial alteration of a designated landmark on a contributing property;
- Any change or alteration of the exterior architectural style of a designated landmark or contributing structure;
- Any alternation to exterior building materials or color;
- Alteration of the roof line of a designated landmark or contributing structure;
- Addition or removal of one (1) or more stories; or
- Illuminated signs or signs over 32 square feet in size

J. General Certificate of Appropriateness

Where the Historic Landmarks Commission has determined that certain materials, designs, architectural features or styles or other characteristics are generally acceptable in the Historic Conservation Overlay District, it may then issue a general Certificate of Appropriateness covering the specific action. If the Planning Director or his/her designee, after reviewing the application, finds that all aspects of the project are covered by the General Certificate of Appropriateness, he/she shall proceed without referral to the Commission, in identifying the general certification of the application.

K. Exemptions

The Unified Development Ordinance has identified certain actions as minor when deemed as not permanently affecting the character of the historic district and as such are exempt from review for architectural compatibility. Examples of such activities include repainting the same or like color; planting of grass, trees, and shrubs which do not substantially alter the contour of the site; permitted outside storage which is not visible from a public street; and any interior changes. The Planning Director or his/her designee retains the authority to order that work be stopped and that an application for a Certificate of Appropriateness be submitted for review when it is determined that the action being taken is inconsistent with the character of the present structure or with the prevailing character of its surroundings and the historic district.

L. Minor Actions

To expedite the review of Certificates of Appropriateness, the Unified Development Ordinance established administrative review procedures whereby the Planning Director or his/her designee can review an application for a Certificate of Appropriateness and grant approval without review by the Historic Landmarks Commission. These are referred to as minor actions and include the following examples:

- Addition or deletion of windows, storm windows and doors that match existing windows, storm windows and doors;
- Addition or deletion of air conditioners;
- Planting of grass, trees, and shrubs but not landscaping which substantially alters the contour of a landmark site;
- Applications or use of exterior materials of the same type, color or texture of those already in use which will not result in the destruction or replacement of original exterior material (includes roofing as well as siding);
- Minor additions or deletions to the structure which will not substantially change the architectural character of the structure;

- Construction of accessory buildings and structures which are in keeping with the character of the existing structure and the surrounding area; or
- Any sign permitted in a residential district and any permitted non-illuminated flat sign not exceeding 32 square feet in area in a business or industrial district.

Property owners are encouraged to contact the Department of Planning and Community Development prior to the submission of an application for a determination as to whether the proposal meets the criteria as a minor action.

Pursuant to Section 31-413(g) of the Unified Development Ordinance, the Planning Director or his/her designee may issue a Certificate of Appropriateness without consulting the Historic Landmarks Commission for certain minor actions which are determined will not negatively affect the character of the historic district. In any case where the Planning Director or his/her designee is uncertain of their authority to approve an application or where the Planning Director or his/her designee and the applicant cannot agree on changes in the proposal, the application shall be referred to the Historic Landmarks Commission for action.

M. Non-Contributing Buildings

The Planning Director and his/her designee is granted authority to approve any of the major actions cited previously for properties not designated as landmark or contributing structures. In granting such approval, the Planning Director and his/her designee shall determine that such action will not substantially and permanently adversely affect the character of the historic district. Further, such approval shall not be granted until the members of the Historic Landmarks Commission have been consulted and approval is received by the majority of the Commission's membership.

N. Appeals

Any applicant may appeal the decision of the Historic Landmarks Commission or the Planning Director or his/her designee to the City Council and from Council to the Circuit Court. An appeal must be filed within 30 days from the time a decision is rendered by the Historic Landmarks Commission or the City Council. The City Council shall fix a reasonable time for the hearing on the appeal and give public notice as required by the *Unified Development Ordinance*. The City Council shall render a decision of the appeal within 60 days. The City Council may reverse, affirm, or modify the decision of the Historic Landmarks Commission and shall notify the Planning Director of its actions. The City Council shall consult with the Historic Landmarks Commission in relation to any appeal and may require documentation of any Historic Landmark Commission decision prior to hearing the appeal.

An appeal from a final decision of the City Council may be filed with the Circuit Court of Appeals within 30 days after the decision, in the manner prescribed by law, by the owner of the property in question, or the Historic Landmarks Commission. The filing of an appeal shall stay the decision of the City Council pending the outcome of the appeal to the Circuit Court, except if such a decision denies the right to raze or demolish a designated landmark, building, or structure. The Circuit Court may reverse or modify the decision of the City Council, in whole or in part, if it finds that the decision is contrary to law or is arbitrary and constitutes an abuse of discretion. It may also affirm the decision of the City Council.

In addition to the right of appeal, the owner of a designated landmark, building, or structure also has the right, under certain circumstances, to make a bona fide offer to sell the property in question. The specific circumstances are outlined in Section 31-413(j)(2) of the Unified Development Ordinance.

O. Maintenance and Repair Required

Pursuant to Article 4, Section 31-413(m) of the UDO, Historic Landmarks Commission, or on appeal, the City Council, shall ensure that all buildings and structures in the Historic Conservation Overlay District are preserved against decay and deterioration and maintained free from structural defects which result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the Historic Conservation Overlay District or upon the life and character of the structure itself. Examples include, but are not limited to:

- The deterioration of exterior walls or other vertical supports;
- The deterioration of roofs or other horizontal members;
- The deterioration of exterior chimneys;
- The deterioration or crumbling of exterior plaster or mortar;
- The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows and doors;
- The peeling of paint, rotting, holes, and other forms of decay;
- The lack of maintenance to the surrounding environment; and
- The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition(s).

After due notice by the Historic Landmarks Commission, or on appeal the City Council, by certified or registered mail of specific instances of failure to maintain or repair and of any opportunity to appear before the Historic Landmarks Commission, or on appeal to the City Council, the owner or person in charge of said structure shall have 90 days to remedy such violation. If the owner fails to act, the Historic Landmarks Commission, or on appeal City Council, may order the Zoning Administrator, after due notice to the owner, to 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.

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