

MODEL HDZ ORDINANCE DRAFT #1

July 28, 2010

1.1 Statement of Intent

The intent of this section is to - implement the Comprehensive Plan goal of protecting our natural, scenic and historic resources and provide a means to recognize and protect the historic, architectural, cultural, and artistic heritage of the community, and to promote and protect the health, safety, recreational, educational, economical and general welfare of the community through the identification, preservation and enhancement of buildings, structures, sites, districts, objects, neighborhoods, landscapes, places and areas which have special historical, cultural, artistic, architectural or archaeological significance as provided by Section 15.2-2306 of the Code of Virginia, as amended, hereinafter the "Virginia Code".

It is hereby recognized that the deterioration, destruction or alteration of said buildings, structures, sites, districts, objects, landscapes, places and areas may cause the permanent loss of unique resources which are of great value to current and future generations of our community, the Commonwealth of Virginia, and the nation, and that the special controls and incentives are warranted to ensure that such losses are avoided.

The purposes for establishing a historic district zoning are:

1. To protect the historic significance and integrity of the properties within the historic district(s) which are or may be recognized for having association with historic events that have made a significant contribution to the broad patterns of our history; *or* have association with significant persons; *or* possess distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; *or* have the potential to yield information important to prehistory or history.

2. To preserve and improve the quality of life and sense of place for residents by protecting familiar and treasured tangible, visual elements in the area.

3. To promote tourism and other economic benefits by protecting historical, architectural, archaeological and cultural resources, including historic

landscapes, attractive to visitors and thereby supporting local business and industry.

4. To stabilize and improve property values by providing incentives for the upkeep and rehabilitation of significant older buildings and structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.

5. To educate residents, students and tourists about the local cultural and historic heritage as embodied in the historic district(s) through the preservation of our architectural and archaeological past that demonstrates the social and artistic development pattern of our predecessors.

6. To promote local historic preservation efforts and to encourage the identification and nomination by their owners of eligible individual historic properties to the National Register of Historic Places and the Virginia Landmarks Register.

7. The promotion of harmony of style, geographical context, form, color, proportion, scale, height, width, spacing, setback, orientation, rhythm, traditional quality, appearance, texture, finish and material between buildings of historic design and those of more modern design.

8. To develop the historic areas, not in a vacuum, but as a vital area in which each succeeding generation may build with the quality and sensitivity of past generations.

9. Encourage sound stewardship and foster a sense of pride in heritage resources.

1.2 Definitions Related to Historic Zoning

Aggrieved Person – A person with an immediate, pecuniary and substantial interest in an action taken by the Zoning Administrator or ARB under this Ordinance, as opposed to a remote or indirect interest.

Alteration - Any change, modification or addition to the form, materials, workmanship, design, appearance, texture or details of all or a part of the exterior of any building, structure, site or object other than normal repair, maintenance, and landscaping.

Architectural Significance – Importance of a property based on physical aspects of its design, materials, form, style or workmanship and recognized by National Register Criterion No. 3.

Area of Significance – The aspect of historic development in which a property made contributions for which it meets the National Register Criteria, such as architecture, agriculture, commerce, community planning and development, politics/government, religion, etc.

Association – Link of a historic property with a historic event, activity or person. Also, the quality of integrity through which a historic property is linked to a particular past time and place.

Building – A resource created principally to shelter any form of human activity, including, but not limited to: a house, barn, meat house, bank, store, church, town hall, courthouse, jail, library, garage, hotel.

Building Official – The person designated by the locality to administer and enforce the Virginia Statewide Building Code.

Certificate of Appropriateness (COA) - The approval statement signed by the Chairman of the Architectural Review Board or designated staff member which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, rehabilitation, restoration, demolition, or relocation of all or part of any building, structure, site or object within a historic district, subject to the issuance of all other regional permits needed for the matter sought to be accomplished.

Contributing Building – A building, which has historic significance by reason of type, period, design, style, workmanship, form, materials, architectural details, or historic association to a significant event or person or has or may yield information important to prehistory or history.

Contributing Properties - Parcels of land containing a contributing building, structure, site or object adding to its historic significance and so designated on the inventory map and inventory of contributing properties and non-contributing properties which are adopted as a part of this Ordinance. The designated contributing properties, which may or may not be individually listed in the Virginia Landmarks Register or National Register of Historic Places, are those properties which by reason of type, period, design, style, workmanship, form,

materials, architectural details, or have historic association to a significant event or person, or have or may yield information important to prehistory or history and relation to surrounding properties contribute favorably to the general character of the part of the Historic District in which they are located.

Contributing Resource – A building, site, structure, district or object adding to the historic associations, historic architectural qualities or archaeological values for which a property is significant because it was present during the period of significance, relates to the documented significance of the property and possesses historic integrity or is capable of yielding important information about the period; or it independently meets the National Register Criteria.

Corridor District – A geographical area contiguous to arterial streets or highways on a significant route of tourist access to the locality or to designated historic landmarks buildings, structures or districts therein or in a contiguous locality determined by the Governing Body to be a historic district.

Cultural Landscape - A geographic area, including both cultural and natural features, associated with an event, person, activity, or design style that is significant in the history of the locality, state or the nation. Historic sites, landscapes designed by a landscape architect, master gardener, architect or horticulturalist and vernacular landscapes developed by human use and activities are types of cultural landscapes.

Design – A quality of integrity applying to the elements that create the physical form, plan, space, structure and style of a property.

District – One of the five resource types, being a concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

Eligibility – The ability of a property to meet the National Register Criteria.

Feeling – A quality of integrity through which a historic property evokes the aesthetic or historic sense of past time and place.

Historic Area – An area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic

heritage of the community, of such significance as to warrant conservation and preservation.

Historic Context – An organizing construct for interpreting history that groups information about historic properties which share a common theme, common geographical location and common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration and treatment of historic properties, based upon comparative significance.

Historic District – Any geographical area delineated by the governing body and consisting of public or private property, containing a significant concentration, linkage or continuity of contributing properties containing contributing building(s), structure(s), site(s) or object(s), united historically or aesthetically by plan or physical development and having a common historical, architectural, archaeological or cultural heritage being of such interest and significance as to warrant conservation and preservation.

Historic Landmark – A building, structure, district, site or object determined to have historical, architectural or archaeological statewide or national significance listed on the Virginia Landmarks Register.

Historic Property – Any prehistoric or historic building, district, site, structure or object.

Historic Significance – Importance for which a property has been evaluated and found to meet the National Register Criteria.

Integrity – The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Level of Significance – The geographical level – local, state or national – at which a historic property has been evaluated and found to be significant.

Local Significance – The importance of a property to the history of its community, this locality, general vicinity or area.

Location – A quality of integrity retained by a historic property existing in the same place as it did during the period of significance.

Materials – A quality of integrity applying to the physical elements that were combined or deposited in a particular pattern or configuration to form a historic property.

National Historic Landmark (NHL) – A historic property evaluated and found to have significance at the national level and designated as such by the Secretary of the Interior.

National Register Criteria – The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places (which is the same criteria used for inclusion in the Virginia Landmarks Register). Specifically, The quality of significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; *or*
2. That are associated with the lives of persons significant in our past; *or*
3. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; *or*
4. That have yielded, or may be likely to yield, information important in prehistory or history.

National Register of Historic Places – The official federal list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture.

National Significance – The importance of a property to the history of the United States as a nation.

Non-Contributing Building – A building that does not add to the historic architectural qualities, historic associations or archaeological values for which a property is significant because it was not present during the period of significance or does not relate to the documented significance of the district; or due to

alterations, disturbances, additions or other changes, it no longer possesses historic integrity or is capable of yielding important information about the period; or it does not independently meet the National Register Criteria.

Non-Contributing Property – A property that does not add to the historic architectural qualities, historic associations or archaeological values for which a resource is significant because it was not present during the period of significance or does not relate to the documented significance of the district; or due to alterations, disturbances, additions or other changes, it no longer possesses historic integrity or is capable of yielding important information about the period; or it does not independently meet the National Register Criteria.

Non-Contributing Resource – A building, site, structure, district or object that does not add to the historic architectural qualities, historic associations or archaeological values for which a resource is significant because it was not present during the period of significance or does not relate to the documented significance of the district; or due to alterations, disturbances, additions or other changes, it no longer possesses historic integrity or is capable of yielding important information about the period; or it does not independently meet the National Register Criteria.

Normal Repair and Routine Maintenance – For the purpose of maintaining the existing condition of the building, structure, site or object, normal repair and routine maintenance involves 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 these character-defining features has deteriorated. Routine maintenance includes repainting the same or different color, but does not include the initial painting of masonry surfaces on any contributing resource.

Object – The resource term used to distinguish from buildings and structures those constructions, which are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, i.e., sculpture, statuary, monuments, boundary markers, fountains.

Period of Significance – The span of time in which a property attained the significance for which it meets the National Register Criteria.

Preservation – The process of determining what to keep from the present for the future and applying measures to sustain the existing form, integrity, type,

style, design, details, workmanship and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Rehabilitation - The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.

Resource – Any building, structure, site, district or object that is part of or constitutes a historic property.

Restoration - The act or process of accurately recovering the form, features, character, materials and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Setting – A quality of integrity applying to the physical environment of a historic property.

Site – One of the five resource types, being the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing or non-existing structure.

Site Improvements - Structural changes to the grounds of a property including the installation or alteration of walls, fences, or structures, paving, regrading, and the installation or removal of major plantings.

State Significance – The importance of a property to the history of the state where it is located.

Structure – One of the five resource types distinguished from a building, being a functional construction made usually for purposes other than creating shelter, including but not limited to, a gazebo, windmill, communication tower, bridge, canal, roadway, power plant, fence, silo.

Virginia Landmarks Register (VLR) – The official state of Virginia list of districts, sites, buildings and structures of historical, architectural *or* archaeological statewide or national significance.

Workmanship – A quality of integrity applying to the physical evidence of the crafts of a particular culture, people or artisan.

1.3 CREATION OF AN ARCHITECTURAL REVIEW BOARD

1.3.1 Creation of the ARB And Membership

For the general purposes of this article and specifically to preserve and protect historic places and areas in the historic district through the control of demolition and relocation of such places and through the regulation of architectural design and uses of buildings, structures, sites and objects in such areas, there is hereby created a board to be known as the “Architectural Review Board” (the “ARB”) to be composed of five (5) voting members. The members of the Architectural Review Board shall be appointed by the governing body.

1.3.2 Terms

Members of the ARB shall be appointed for terms of four (4) years and shall serve at the pleasure of the governing body. Initial appointments shall be for two (2) members for four (4) years and three (3) members for two (2) years, so that terms of office shall be staggered. Members shall serve until their successors are appointed.

1.3.3 Removal of Members

Any member of the ARB may be removed from office by the governing body for neglect of duty, malfeasance, the continued absence from the regular or called meetings of the ARB or ongoing disregard for the positive mission of the district and ARB.

1.3.4 Compensation

Members of the ARB shall receive such compensation as may be authorized by the governing body, from time to time.

1.3.5 Interests and Qualifications of Members

Members of the Architectural Review Board shall have demonstrated a positive interest in preserving the architectural integrity of the buildings, structures, sites and objects within the designated historic district(s). One (1) member may be selected among the membership of the planning commission. To the extent practicable, at least one (1) member shall be a licensed architect, and one (1) shall be an architectural historian or have substantial background in local, state, or national history or in historic preservation, architecture, archaeology or cultural preservation or in landscape architecture, or shall be a licensed contractor or be employed in the building materials industry.

1.3.6 Training Sessions

Members shall make every effort to attend training sessions periodically sponsored or approved by the Virginia Department of Historic Resources, Preservation Virginia or other organizations, including those arranged by the staff of the Planning Department, that are involved with historic preservation issues, design and review standards or other work of the ARB.

1.3.7 Selection of the Board's Officers

The ARB shall elect from its own membership a chairman and vice-chairman who shall serve annual terms and may succeed themselves. The local zoning administrator shall serve as administrative staff to the ARB and maintain all records, minutes and files relating to the ARB meetings.

1.3.8 Powers and Duties of the Review Board

1. The ARB shall administer the provisions of this Ordinance in accordance with duties as set forth in each section.

2. The ARB shall develop and recommend to the governing body, as well as periodically review, appropriate design guidelines that are consistent with guidelines established herein and the Secretary of the Interior's Standards and Guidelines for Rehabilitation, for each such district and which have been approved by the governing body;

3. The ARB may, from time to time, recommend areas for designation as Historic Districts, and additions or deletions to districts;

4. The ARB shall review and approve or deny all applications for Certificates of Appropriateness in any Historic District. Decisions of the board are binding upon applicants, unless and until said decisions are overturned on appeal;

5. Act in an advisory role to other officials and departments of the locality regarding protection of local historic resources;

6. Periodically conduct, or cause to be conducted, a survey of historic resources in the community according to guidelines established by the State Historic Preservation Office;

7. Disseminate information within the locality on historic preservation issues and concerns;

8. Coordinate local preservation efforts with those of local historic and preservation organizations, the Virginia Department of Historic Resources, and other parties, both public and private;

9. Receive and act on public comment;

10. Advise owners of historic properties on issues of preservation, as requested;

11. Make recommendations to the governing body regarding authorization of plaques to commemorate historic resources;

12. Seek out funds to forward the purposes of this ordinance, and to make recommendations to the governing body regarding the use of the funds;

13. Investigate and support incentives programs including heritage tourism events and activities;

14. Investigate and support heritage education activities.

1.3.9 Power to Adopt Rules of Procedure

The ARB shall be authorized to adopt rules of procedure for the transaction of its business and implementation of the purposes of this Ordinance. The rules of procedure shall not conflict with the provisions of this Ordinance.

1.3.10 Authority to Employ Staff and Consultants

The ARB may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as the ARB may deem necessary for the transaction of its business. The ARB shall have the authority to request the opinion, advice or other aid of any officer, employee, board, bureau or commission of the locality.

1.3.11 Annual Report by Board

The ARB shall submit an annual report of its activities to the governing body.

1.4 CREATION OF HISTORIC DISTRICTS

1.4.1 Inventory of Historic Resources

In accordance with the Virginia Department of Historic Resource's criteria and guidelines, the ARB shall conduct, or cause to be conducted, a survey of buildings, structures, objects and sites for the purpose of identifying those resources which have historical, architectural, archaeological or cultural significance, and for the purpose of compiling appropriate descriptions, documentation. Upon completion or updating of the inventory, the ARB shall use the survey results to recommend to the governing body the designation of Historic Districts or revisions to existing Historic Districts. In accomplishing the survey and study, the ARB shall place particular emphasis upon evaluating and incorporating the findings of historic, architectural, and archaeological surveys and studies already completed. The resulting new or updated inventory shall be adopted by the ARB and recommended to the governing body for adoption, as a part of this ordinance.

1.4.2 Inventory Map of Historic Resources

Based upon the inventory, or any amendment thereto, the ARB shall prepare and recommend for adoption by the governing body, as a part of this Ordinance, an inventory map, hereinafter called the "Inventory Map." When adopted by the governing body, following the recommendation of the ARB and the Planning Commission, the Inventory Map, and any amendments thereto, shall be a part of this Ordinance and shall be filed with this Ordinance and with the Zoning Map.

1.4.3 Designation of Contributing and Non-Contributing Properties

Buildings, structures, objects or sites designated as properties which contribute to the historic character of the district shall be shown as contributing properties for the purpose of this Ordinance. Contributing properties that are further distinguished with individual listing on the Virginia Landmarks Register and National Register of Historic Places will also be noted. Buildings, structures, sites or objects that do not contribute to the historic district shall be shown as noncontributing properties.

1.4.4 Establishment of, and Amendments to, Historic District Boundaries

The ARB shall propose to the governing body one or more historic districts based upon the inventory and the Inventory Map, or any amendments thereto. Historic Districts so proposed or later modified shall be established as amendments to the Zoning Ordinance. Upon receipt of a proposal, the governing body shall initiate an amendment pursuant to the provisions of the Zoning Ordinance.

1.4.5 Preparation of Report on Proposed Designation

The ARB shall prepare and submit a report to the governing body evaluating the proposal to establish or amend a Historic District. Such report shall identify the Historic District boundaries as well as the historic, architectural, archaeological, or cultural significance of buildings, structures, objects or sites to be protected, and describe present trends, conditions and desirable public objectives for preservation. In addition, such report shall include the following specific information:

1. An analysis of existing structures by period of construction, architectural style, type, form, materials, design, integrity, condition and matters relating to site conditions, such as building location, location of yards and other open spaces, access to interior of lots, and off-street parking provided.

2. A description of individual buildings, structures, sites and objects that add historic significance to a property and premises of substantial public interest, with maps, photographs and other data indicating the public importance of their preservation and the particular features to be preserved. These shall be identified as contributing properties and noted as such in the report.

3. An analysis of the extent and historic significance of identified archaeological sites including general location maps, photographs and other data indicating the public importance of a particular site.

4. The boundaries of the proposed Historic District, or expansion area, and the location of the district core and all contributing properties, including those individually listed on the state and national registers, and non-contributing properties shall be shown on a proposed Map.

5. Recommendations concerning detailed regulations to be applied within the district, to supplement or modify general regulations set forth in this Ordinance and any Guidelines adopted pursuant thereto.

1.4.6 Criteria for Establishing Historic Districts

Criteria for evaluating the merits of a given building, structure, site or object shall be based on architectural features as well as historic associative factors. Certain buildings, structures, objects or areas, although not associated with a historic personage or event, may be valuable examples of the community's physical and cultural heritage. Buildings, structures, objects and sites of local significance shall be evaluated as well as those of State and National significance, and any structures individually listed upon the National Register of Historic Places or the Virginia Landmarks Register shall be designated upon the community's register as contributing VLR and NRHP properties. In addition, such evaluation shall be based on the following specific matters:

1. The evaluation shall respect the qualities of each architectural and landscape style or type and its geographical context and shall judge a resource's merit on how well it exemplifies the distinguishing characteristics of said style or type. Consideration will be given to:

A. Significance of architectural design, period, form, method of construction, character-defining details or representation of a significant distinguishable entity whose components may lack individual distinction.

B. Scale, size and/or interrelationships of resources and/or environmental features.

C. Significant patterns of development.

- D. Quality of workmanship.
- E. Amount of surviving original fabric.
- F. Original location and/or use.
- G. Remaining outbuildings or dependencies.
- H. Surrounding environment, including gardens, landscaping, and walks.
- I. Aesthetic or artistic quality.
- J. Original integrity of the resource and its details.

2. It is related to a park, street configuration, open space, hill, body of water, or landscaped grounds of significance in the areas of urban planning or landscape architecture.

3. It is contiguous with a neighborhood, district, building, structure, object or site that meets one or more of the forgoing criteria, and changes to it could impact the neighborhood, district, building, structure, object or site that meet the foregoing criteria.

4. It fosters civic pride in the community's past and enhances the community's attractiveness to visitors.

5. Historical and/or Cultural Significance.

Buildings, structures, objects, districts or sites relating to one or more of the following National Register Criteria will be considered historically or culturally valuable:

- A. Association with historic personage.
- B. Association with historic event.
- C. Work of leading architect or master craftsman. (Associative value of Criterion C – architectural significance).

D. Site of cultural significance that has or may be likely to yield information important in prehistory or history.

In addition, sole or infrequent surviving building types and structures not historic in themselves but adding to the character of a historic district need to be looked at as potentially deserving preservation.

1.4.7 Boundaries of Historic Districts

1. The boundaries of a historic district shall, in general, be drawn to include areas containing historic landmarks as established by the Virginia Board of Historic Resources, and any other concentration, linkage or continuity of buildings, structures 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 and integrity as to warrant conservation and preservation. The district may include either individual buildings or places of such character and a reasonable distance beyond to incorporate the contributing setting, or it may include areas or groupings of resources which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some in the defined area might not possess significant merit when considered alone.

2. Historic District boundaries may also be drawn to include any area of unique architectural value located within designated conservation, rehabilitation or redevelopment districts and land contiguous to arterial streets or highways, as designated under Title 33.1 of the Code of Virginia, 1950, as amended, found by the governing body to be significant routes of tourist access to the locality or to designated historic districts, landmarks, buildings or structures.

3. The boundaries of a historic district shall conform to the boundaries of individual lots of record to the extent possible. Where a street is proposed as a historic district boundary, the edge right-of-way adjoining the district shall be deemed the district boundary

1.4.8 Existing Zoning Not Affected

The regulation of a Historic District shall be in addition to the regulations of the underlying zoning, and shall be applied so as to overlay and be superimposed on such other zoning districts as permitted by the provisions of this Zoning Ordinance and shown on the official zoning map. Any property lying within a

Historic District shall also lie within one or more of such other zoning districts, which shall be known as underlying districts. The regulations of the Historic District Zoning Article shall be in addition to the regulations of the underlying zoning district.

1.4.9 Zoning Map Amendment

All historic districts, and amendments thereto, shall be designated on the locality's zoning map and approved in compliance with the requirements of the zoning ordinance for zoning map amendments.

1.5 CERTIFICATE OF APPROPRIATENESS

1.5.1 Power to Approve Alterations and New Construction

After the designation of a historic district, no exterior portion of any historic landmark, building, structure or object (including, but not limited to, walls, fences, light fixtures, statuary, monuments, steps and pavement, or other appurtenant features) nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the ARB or, on appeal of a decision of the ARB, by the governing body.

1.5.2 Exemptions

Notwithstanding the foregoing, any work under Normal Repair and Routine Maintenance to stabilize, consolidate and conserve historic materials, features and workmanship by strengthening fragile fabric through consolidation, patching, limited splicing in kind or otherwise reinforcing using recognized preservation methods to prevent further deterioration or to partially replace too-decayed parts with in-kind materials in order to correct any deterioration, decay or damage, or to restore as nearly as practicable to its condition prior to any decay, deterioration or damage shall be exempt from the requirements of a Certificate of Appropriateness.

1.5.3 Limitations on Board Power to Review

The ARB shall not consider interior arrangements.

1.5.4 Pre-application Conference

Prior to the submission of an application for a certificate of appropriateness, an owner may hold a conference with the chairman of the ARB or the director of planning to discuss and review any proposal for a change in a protected property. The principal objective of this conference shall be to simplify and expedite the formal review process.

1.5.5. Pre-application Review

Any person may request the ARB to review conceptual design proposals for exterior work before submitting a formal application for a certificate of appropriateness. The ARB shall review and discuss the proposal with the applicant and make any necessary recommendations. Such conceptual review shall be advisory only.

1.5.6 Information Required

In consideration of a complete application, the ARB may require any or all of the following information and any other materials as may be deemed necessary for its review:

1. Statement of proposed use and user.
2. Statement of estimated construction time.
3. Photographs and maps showing the existing condition, design, details and location of any existing buildings, structures, objects or sites and relating proposed use to the surrounding property and/or the corridor on which it is located.
4. Site plan drawings, showing the location of the existing and proposed building and site improvements, including:
 - A. Existing property boundaries, building placement and site configuration, location of parking, pedestrian access, signage, exterior lighting, fencing, buildings, structures and other appurtenant elements.
 - B. Existing topography and proposed grading.
 - C. Relationship to adjacent land uses and any buildings or structures thereupon.

5. Scaled architectural drawings showing plan view and elevations of new planned construction or alterations, including drawings of original building.

6. Proposed building materials including their composition, texture, finish, quality and appearance, including product brochures and specifications.

7. Existing landscape preservation plan, if applicable, and the proposed landscaping and buffer plan.

8. Designs for exterior signage, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs.

9. Comprehensive design and material details of doors and windows, ornamentation, including any product specifications.

10. A written statement concerning construction methods to be employed.

11. Samples to show the nature, texture, finish, appearance and color of materials proposed.

12. In the case of a demolition request where structural integrity is at issue, the applicant shall also provide a structural evaluation prepared by a qualified structural engineer and cost estimates for rehabilitation. The ARB may waive the requirement for a structural evaluation and cost estimates (i) in the case of an emergency, or (ii) if it determines that the structure proposed for demolition is not historically significant.

1.5.7 Other Approvals Required

No application for a Certificate of Appropriateness shall be complete until the Zoning Administrator can determine that the use of the property, building or structure is permitted under the current zoning for such property.

1.5.8 Certain Minor Actions Exempted from Review

Certain minor actions, which are deemed not to permanently affect the character of the historic district are exempted from review for architectural compatibility. 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:

1. Repainting resulting in the same or like color. (Original painting of masonry surfaces is not exempted from review.)
2. Addition or deletion of storm windows and storm doors. Addition or deletion of window air conditioners. Character-defining features, alteration, addition or deletion of windows and doors or alteration to their frames, shall be reviewed by the ARB. The replacement of broken window panes is exempted from review.
3. Addition or deletion of television or radio antennas, skylights, solar collectors, or satellite dishes, in locations not visible from a public street.
4. Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a landmark site.
5. Permitted new construction of outside storage, which will not substantially change the architectural character in any office, business or industrial district, which is not visible from a public street.

Notwithstanding the above, the Zoning Administrator shall have the authority to order that work be stopped and that an appropriate application be filed for review in any case where the action may produce arresting effects, violent contrasts of materials or colors and intense or lurid colors or patterns, or incongruous details inconsistent with the character of the present buildings and structures or with the prevailing character of the surroundings and the historic district.

1.5.9 Consideration of Application for Certificate of Appropriateness

1. The ARB shall be guided in its decisions by the standards and guidelines established in this article and in the Historic District Design Guidelines. The ARB shall have authority to request modification of proposed actions in order to comply with said standards and guidelines.
2. The ARB shall not approve or disapprove an application except with respect to the standards and guidelines in this article or the Historic District Design Guidelines. The ARB shall give reasons for its decisions, shall act promptly on

applications before it and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this Ordinance.

3. Meetings of the ARB shall be open to the public.

4. Where the exterior appearance of any building or structure is involved, no building permit shall be issued for erection, alternation or improvement, and no certificate of occupancy shall be issued, by the Building Official, unless a Certificate of Appropriateness has first been issued.

5. No exterior alternations which do not require a building permit but which can change the exterior appearance and character-defining features of the building or structure such as alteration or replacement of doors, window sash, porch railings, roof areas and porch flooring; installation, removal or replacement of trim detail, cornices, shutters, gutters and down spouts; sign face changes; and the like shall be constructed or installed unless a certificate of appropriateness has first been obtained.

6. No driveway permit shall be issued by the department of public works unless a certificate of appropriateness has first been obtained.

7. No site features or appurtenances, such as walls, fences, arbors, paved parking areas, patios, decks, garages, tool sheds, other accessory structures, and the like, shall be constructed or installed unless a certificate of appropriateness has first been obtained.

8. During construction or installation, the certificates of appropriateness shall be posted on the property in a location that is visible from the public right-of-way, and a complete set of the approved plans shall be retained on the premises and shall be made available to the city inspectors.

1.5.10 Criteria for ARB

The ARB shall consider, among other things, the following in determining the appropriateness of any erection, exterior alteration or restoration:

1. The compatibility with the design, development standards and criteria as included in this ordinance and the adopted Historic District Guidelines, entitled "Historic District Guidelines for the _____ of _____ (200_), with additions and amendments as may be adopted from time to time.

2. The appropriateness of the type, form, style, general overall design geometry, size, scale, massing, height, width, spacing, rhythm and proportions, structural arrangement, decorative and design details, materials, texture, finish, quality, appearance and color of the proposed building, structure or appurtenant element in relation to such factors as the architectural compatibility with similar features of buildings or structures within the area of any Historic District.

3. The historical or architectural value and significance of the building, structure or appurtenant element and its relationship to the historic or architectural value of the area in which it is proposed to be located.

4. The extent to which the building, structure or appurtenant element will be harmonious with or architecturally incompatible with the historic buildings within any Historic District.

5. The compatibility of planned improvements and alterations with the architectural and historic quality, character, size, scale, massing, spacing, proportions, rhythm, decorative and design details, materials, texture, finish and appearance of the historic buildings, structures and objects in any Historic District and to the components on the subject building or structure.

6. The effect of the building, structure or appurtenant element on the Comprehensive Plan's goals for tourism, economic development and residential land uses in and around the historic areas.

7. The compatibility of the proposed building, structure or appurtenant element with the Comprehensive Plan's goals for historic preservation and architectural design review.

8. The impact of the proposed alteration, new construction or restoration upon the historic setting, streetscape or area.

9. The probable effect of proposed construction on historic sites and other cultural landscapes.

10. Any other factors, including aesthetic design factors, which the ARB deems to be pertinent.

11. Signage – The type, form design, overall dimensions, scale in relation to the building or site, materials, texture, finish, design of the message, lettering

dimensions and style, colors, method of physical support or erection, any exterior illumination, orientation and setting shall be considered.

12. Awnings and Canopies – The type, form, design, overall dimensions, height, scale in relation to the building or site, materials, texture finish, colors, and the dimensions, style and colors of any lettering, the shape and design of the opening to be covered, the method of physical support and attachment to the building, any exterior illumination, orientation and setting shall be considered.

13. Fencing – The location, setting, orientation, type, form, design, overall dimensions, scale, materials, texture, finish, color, impact on adjacent property owners and any additional screening shall be considered.

14. Mechanical Equipment (HVAC Systems, Exhaust Fans, Satellites, Skylights) – The location, setting, visibility, screening, method of installation into the building, orientation, type, form overall dimensions, scale, design, materials, texture, finish and appearance shall be considered.

15. The ARB shall also be guided by the purposes for which historic landmarks and historic districts with contributing and non-contributing properties are designated and by the particular standards and considerations contained in *The Secretary of the Interior's Standards for Rehabilitation* and guidelines for applying the Standards.

1.5.11 Design Guidelines

The ARB shall develop design guidelines and criteria that are substantially consistent with *The Secretary of the Interior's Standards for Rehabilitation* to guide the ARB in its determinations of the appropriateness of applications. These guidelines shall be approved as amendments to the Zoning Ordinance by the governing body upon the recommendation of the Planning Commission and the ARB. Approval of the Guidelines, and any amendments thereto, shall be subject to the notice and hearing requirement of Section 15.2-2204 of the Code of Virginia of the Planning Commission and the governing body.

1.5.12 Public Hearings on Applications for Certificate of Appropriateness

The ARB shall hold a public hearing on all applications for a Certificate of Appropriateness and on the approval or amendment to, any historic district, and on

any guidelines or amendments thereto in compliance with the notice and hearing requirements of Section 15.2-2204 of the Virginia Code.

1.5.13 Form of Decision and Required Findings

Evidence of the approval required under the terms of the Historic District shall be a Certificate of Appropriateness issued by the ARB and the Zoning Administrator as the case may require, 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 ARB, or the Zoning Administrator as the case may require. A Certificate of Appropriateness shall be in addition to any other permits required. Any action of applicants following issuance of a permit requiring certificate of appropriateness shall be in accord with the application and material approved.

1.5.14 Reasons for Action

The ARB shall state clearly its reasons for approval, denial, modification, or deferral of an application in the records of the ARB proceedings.

1.5.15 Failure of Board to Review Plans in Timely Fashion

The ARB shall render a decision upon any request or application for a Certificate of Appropriateness within sixty (60) days after such application is deemed complete by the Zoning Administrator; failure of the ARB to render such a decision within said sixty (60) day period, unless such period be extended with the concurrence of the applicant, shall be deemed a denial of the application.

1.5.16 Authority to Inspect

When a Certificate of Appropriateness has been issued, the Zoning Administrator 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 in violation of the Zoning Ordinance. The Zoning Administrator may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

1.5.17 Certificate of Appropriateness Void if Construction Not Commenced or Halted

A Certificate shall become null and void if no significant improvement or alteration is made in accordance with the approved application within twelve (12) months from the date of approval. On written request from an applicant, the ARB may grant a single extension for a period of up to one year if, based upon submissions from the applicant, the ARB finds that conditions on the site and in the area of the proposed project are essentially the same as when approval originally was granted.

1.5.18 Certificate of Compliance

Prior to the issuance of a final occupancy permit by the Building Official, the applicant shall obtain a Certificate of Compliance from the ARB indicating the compliance of the final building or structure with the terms and conditions of his or her Certificate of Appropriateness. The ARB shall be the issuing agency for all Certificates of Compliance, whether the ARB issued the original Certificate of Appropriateness or whether the governing body issued it upon appeal.

1.6 MAINTENANCE OF HISTORIC PROPERTIES

1.6.1 Ordinary Maintenance Exclusion

Normal maintenance and repair - Nothing in this section shall be construed to prevent the normal repair and maintenance of any exterior architectural feature now or hereafter located in the Historic District. Repair and maintenance should strive to retain existing materials and features while employing as little new material as possible. Such repair begins with the least degree of intervention possible by strengthening fragile materials through consolidation, patching, limited splicing in kind or otherwise reinforcing using recognized preservation methods. All work should be physically and visually compatible, identifiable upon close inspection and documented for future research. If repair by stabilization, consolidation and conservation proves inadequate, the next level of intervention involves the limited replacement in kind of extensively deteriorated or missing parts of features when there are surviving prototypes, i.e., brackets, dentils, slate shingles. The replacement material needs to match the old both physically and visually, i.e., wood for wood, slate for slate.

1.6.2 Minimum Maintenance Requirement (Demolition by Neglect)

1. No contributing building or structure within any Historic District shall be allowed to deteriorate due to neglect to the extent that decay, deterioration or

defects may, in the opinion of the ARB, result in the irreparable deterioration of any exterior appurtenance or architectural feature, loss of integrity or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself. Upon such determination, the ARB shall request a report of the Building Official who shall, within thirty (30) days report to the ARB on the following matters:

- A. Deterioration of exterior walls or other vertical supports;
- B. Deterioration of roofs or other horizontal members;
- C. Deterioration of chimneys;
- D. Deterioration or crumbling of exterior stucco or mortar;
- E. Ineffective, long-neglected peeling paint representing a lack of a protective waterproof coating on exterior wooden wall surfaces and wooden elements causing prolonged water penetration, rotting and other forms of decay.
- F. The lack of maintenance of the surrounding environment causing deterioration to the building or structure through poorly maintained landscaping or plant overgrowth including overhanging trees, limbs or roots allowed to beat against or grow into the resource; or invasive vines such as climbing ivy with tendrils that attach to and cause loss of mortar and structural soundness in masonry walls and pull out corner boards, weatherboard and other wooden elements.
- G. Deterioration of any feature so as to create, or permit the creation of any hazardous or unsafe condition;
- H. Determination by the Building Official or other state authorized safety expert that a structure is unsafe or not in compliance with any safety provisions of the Statewide Building Code.

2. The ARB shall hold a public hearing on the report prior to making a determination about any violation of this Section. The Zoning Administrator shall notify the owner of the subject property of the hearing and provide the owner with a copy of the report. The owner shall have thirty (30) days from the decision to appeal to the governing body a determination by the ARB of a violation of this Section. (See 15.2-2283 and Virginia Statewide Building Code)

3. The owner shall have sixty (60) days from the date of the ARB's determination to present to the ARB a plan to remedy the neglect and six (6) months from the ARB's approval of the Plan and issuance of a Certificate of Appropriateness to complete the necessary remedial work. If appropriate action is not taken by the owner, the Zoning Administrator shall initiate appropriate legal action for a violation of the Zoning Ordinance.

1.6.3 Public Safety Exclusion

Nothing in this Article shall prevent the razing or demolition of any building or structure without consideration of the ARB which is in such an unsafe condition that it would endanger life or property, and protection from such condition is provided for in the Statewide Building Code and/or other applicable ordinances. However, such razing or demolition shall not be commenced without written approval of the Building Official verifying the conditions necessitating such action.

1.7 DEMOLITION APPLICATIONS

1.7.1 Razing or Demolition

No historic landmark or contributing building or structure, which accompanies this Ordinance shall be partly or fully demolished until a Certificate of Appropriateness is issued by the ARB, with right of direct appeal from an adverse decision to the governing body, as hereinafter provided. An appeal for final decision by the governing body shall be automatic and mandatory in the case of approval of the demolition of a building or structure so designated as a landmark. The Zoning Administrator may approve the demolition of a building or structure within the Historic District(s), which has not been designated either as a landmark or contributing structure on said inventory map.

1.7.2 Matters to be Considered in Determining Whether or Not to Grant a Certificate of Appropriateness for Razing or Demolition.

The ARB shall consider the following criteria in determining whether or not to grant a certificate of appropriateness for razing or demolition:

1. Whether or not the historic landmark, contributing building or structure is of such architectural or historic significance that its removal would be to the detriment of the public interest, to education, cultural heritage, the architectural history of the locality and would cause a loss of a visual tangible

demonstration of local history and the social and artistic pattern of community development and planning.

2. Whether or not the contributing building or structure is of such interest or historic significance that it would qualify as a National, State, or local historic landmark through individual listing on the Virginia Landmarks Register or National Register of Historic Places.

3. Whether or not the historic landmark, contributing building or structure embodies the distinctive characteristics of a type, period, style, method of construction, represents the work of a master, possesses high artistic values or represents a significant or distinguishable entity whose components may lack individual distinction or whether the resource is associated with events that have made a significant contribution to the broad pattern of history or is associated with significant persons.

4. Whether or not retention of the historic landmark, contributing building or structure would help to preserve and protect a historic or architecturally significant place, the quality of life and pride of place or area of historic interest in the locality and promotes the purposes and intent of historic district zoning including tourism.

5. Whether or not the historic landmark, contributing building or structure has retained integrity or authenticity of its historic identity of design, materials, workmanship, setting, location, association and feeling and whether its unusual design, quality and workmanship of traditional materials and details of character-defining features could be easily reproduced.

6. Whether the proposed razing or demolition will effect the archaeological potential to yield information important to prehistory or history at this site.

1.7.3 Offer for Sale.

However, the owner of a historic landmark, contributing building or structure, as a matter of right shall be entitled to raze or demolish provided that:

1. He has applied to the ARB for such right.
2. The owner has for the period of time set forth in the time schedule hereinafter contained at a price reasonably related to its fair market value as

determined by independent appraisal, as hereinafter set forth, made a bona fide offer to sell such landmark, building or structure, and the land pertaining thereto, to such person, firm, corporation, government, or agency, 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. The procedure for establishing the fair market value, unless the owner and the ARB agree upon the said value, shall be that the owner and ARB shall each retain one independent, qualified appraiser, and should the two appraisers not agree upon the said fair market value, those appraisers shall choose a third qualified appraiser. A median value shall be established by the three appraisers, which shall be final and binding upon the owner and the ARB.

3. No contract for the sale of any such historic landmark, or contributing building or structure and the land pertaining thereto, shall be binding or enforceable prior to the expiration of the applicable time period as set forth in the time schedule hereinafter contained. Any appeal which may be taken to the governing body from the decision of the ARB, and from the governing body to the Circuit Court, shall not affect the right of the owner to make bona fide offer to sell. Offers to sell as provided in this section shall be made within one (1) year of the date of application to the ARB.

4. Notice. Before making a bona fide offer to sell, an owner shall first file a written statement with the Chairman of the ARB. Such statement shall identify the property, state the offering price, the date the offer of sale is to begin, and name of the real estate agent, if any. No time period set forth in the time schedule hereinafter set forth shall begin to run until such statement has been filed.

The time schedule for offers to sell shall be as follows:

1. Three (3) months when the offering price is less than twenty-five thousand dollars (\$25,000);

2. Four (4) months when the offering price is twenty-five thousand dollars (\$25,000) or more but less than forty thousand dollars (\$40,000);

3. Five (5) months when the offering price is forty thousand dollars (\$40,000) or more but less than fifty-five thousand dollars (\$55,000);

4. Six (6) months when the offering price is fifty-five thousand dollars (\$55,000) or more but less than seventy-five thousand dollars (\$75,000);

5. Seven (7) months when the offering price is seventy-five thousand dollars (\$75,000) or more but less than ninety thousand dollars (\$90,000);

6. Twelve (12) months when the offering price is ninety thousand dollars (\$90,000) or more.

7. Or such other schedule as may be established from time to time in Section 15.2-2306 of the Virginia Code.

1.7.4 Moving or Relocation

No building or structure officially designated as a historic landmark or contributing building or structure within the district on the inventory map which accompanies this Ordinance shall be moved or relocated unless the same is approved by the ARB and a Certificate of Appropriateness issued with right of direct appeal of an adverse decision to the governing body as herein provided. An appeal for final decision by the governing body shall be automatic and mandatory in the case of approval of the moving or relocation of a building or structure so designated as a historic landmark. The Zoning Administrator may approve the moving or relocation of the building or structure within the historic district, which has not been designated either as a historic landmark, contributing building or structure on said inventory map.

1.7.5 Matters to be Considered in Determining the Appropriateness of Moving or Relocating a Historic Landmark, Contributing Building or Structure within a Historic District:

1. Whether or not the proposed relocation would have a detrimental effect on the structural soundness of the historic landmark, contributing building or structure or any other resource in the district with its relocation.

2. Whether or not the proposed relocation would have a detrimental effect on the historical and architectural aspects of other historic landmarks, contributing buildings or structures at the present site or in the district(s).

3. Whether the proposed relocation would provide new surroundings that would be harmonious with or incompatible with the historical and architectural aspects of the historic landmark, contributing building, or structure.

4. Whether or not the proposed relocation is the only means of saving the building or structure from demolition or demolition by neglect.

5. Whether the proposed relocation will take into consideration any related outbuildings and the impact or effect upon these resources.

6. Whether the present site will remain vacant for a long period of time and how this will effect the historic streetscape and Historic District(s).

7. Whether the proposed relocation will effect the archaeological potential to yield information important to prehistory or history on the current site and proposed site.

1.8 APPEAL PROVISION

1.8.1 From ARB to Local Governing Body

1. The applicant or any aggrieved person may appeal a final decision of the ARB to the governing body by filing a written notice of appeal within thirty (30) days of the date of the ARB decision.

2. The governing body may affirm, reverse, or modify, in whole or in part, the decision of the ARB. In so doing, the governing body shall give due consideration to the recommendations of the ARB along with other evidence as it deems necessary for the proper review of the application.

3. Hearing before the governing body - Upon appeal, the final decision of the ARB shall be stayed pending the decision of the governing body; provided, however, that the applicant is prohibited from taking any action for which approval is sought during the pendency of such appeal. The governing body shall conduct a full and impartial public hearing on the matter using the same adopted standards, criteria and design guidelines, in compliance with Section 15.2-2204 of the Virginia Code, before rendering any decision.

1.8.2 From Local Governing Body to Circuit Court

1. Appeal to Circuit Court - Any person may appeal any decision of the governing body to affirm, modify or reverse a decision of the ARB to the Circuit Court for review by filing a petition at law. The petition shall set forth the alleged illegality of the action of the governing body and the grounds thereof. The petition

shall be filed within thirty (30) days after the decision of the governing body. The filing of the petition shall stay the decision of the governing body, except that a decision denying a request for demolition in a Historic District shall not be stayed. A copy of the petition shall be delivered to the locality's attorney, who shall file with the Circuit Court a certified or sworn copy of the record and documents considered by the governing body.

2. Review by Circuit Court - The Circuit Court shall review the record, documents and other materials filed by the governing body. The Circuit Court may reverse or modify the decision of the governing body, in whole or in 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 the Court may affirm the decision of the governing body.

1.9 ENFORCEMENT OF PROVISION

1.9.1 Injunctions and Revocations of Permits

Wherever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this Ordinance, the Zoning Administrator, upon resolution of the ARB of such violations, may make application to the circuit court for an order enjoining such act or practice, or requiring such person to refrain from such prospective violation, or to remedy such violations by restoring the affected property to its previous condition or remedying neglect. Upon proof by the ARB that such person has engaged in or is about to engage in any such act or practice, a temporary or permanent injunction, restraining order or other appropriate order shall be granted.

1.9.2 Authority to Revoke Permits

The Zoning Administrator shall have authority to order that work be stopped and that all permits for the work being performed be revoked upon a resolution of the ARB of any violations of this Ordinance.

1.10 Criminal Penalty

1. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000.00) and not less than one hundred dollars (\$100.00).

2. For the purpose of this Ordinance, each day during which there exists any violation of any provision herein shall constitute a separate violation of such provision.

1.11 Severability

Severability - If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons or circumstances shall not be affected thereby.