

FAIRFAX COUNTY ZONING ORDINANCE

- E. The boundaries of the proposed Historic Overlay District and the location of the district core and all historic and contributing properties shall be shown on current Fairfax County Zoning Map Section Sheets at a scale of one inch equals five hundred feet (1" = 500') and a listing of the related tax map reference numbers shall be provided.
- F. Recommendations concerning detailed regulations to be applied within the district, to supplement or modify general regulations set forth in this Ordinance, which detailed regulations may include those pertaining to permitted and prohibited principal and accessory uses and structures, use limitations, bulk regulations, lot size requirements, performance standards, off-street parking and loading requirements, control of signs and exterior illumination, landscaping and screening, control of exterior character of buildings and sites when visible from a public way only, and control of, additions to, or removal of existing buildings where said controls and regulations are only for the express purpose of preventing changes which are architecturally incompatible with the buildings, structures or sites to be preserved.

The report for a request to revise an existing Historic Overlay District may contain all or part of the information set forth above as deemed appropriate by the Department of Planning and Zoning in conjunction with the ARB and the Fairfax County History Commission.

- 4. If the Board of Supervisors establishes a Historic Overlay District by adoption of an amendment to this Ordinance, its action shall include a declaration that the buildings, structures, or sites to be preserved are in fact of historical, architectural, archaeological, or cultural significance requiring protection against destruction and encroachment. Such action shall amend the Zoning Map by placing said historic district thereon, overlaying the existing zoning district(s). In taking such action, the Board shall identify, where applicable, historic and contributing properties. Such action shall also include adoption, in the manner provided by general law, of such regulations and development policies as may be deemed necessary by the Board of Supervisors. Upon adoption, such regulations for a given historic district, which shall supplement or modify the regulations for the underlying district(s), shall be presented as an appendix to the Zoning Ordinance. Such appendix shall be incorporated as part of this Ordinance by reference as if it were completely presented herein.

7-204

Administration of Historic Overlay District Regulations

Once established, Historic Overlay Districts shall be subject to administrative procedures for the enforcement of such regulations as provided in this Section.

- 1. All applications for rezoning, special exception, special permit, variance, sign permits, building permits, as qualified below, and all site plans, subdivision plats and grading plans shall be referred to the ARB for its review and recommendation in accordance with the provisions of this Part.
- 2. The ARB review and recommendation on applications for a rezoning, special exception, special permit, variance and for site plans, subdivision plats and grading plans shall include

OVERLAY AND COMMERCIAL REVITALIZATION DISTRICT REGULATIONS

consideration of the potential impact of the proposal on the historical, architectural, or archaeological significance of the district and, but not limited to, the following:

- A. The impact of the proposed use, regarding the intensity, density, or scale of development on existing conditions in the district;
- B. Any change to the visual character of the district including views to and from historic and contributing properties;
- C. The location of buildings or structures, streets or parking areas, and planting or landscape features;
- D. Any change to existing grades, drainage patterns, landscaping or similar features as a result of permanent or temporary site construction activities;
- E. Any change to non-structural site elements, such as vehicular access, yard requirements or utility easements, that may affect the historic character of the district.

3. ARB approval shall be required prior to the issuance of Building Permits by the Director and approval of sign permits by the Zoning Administrator for the following:

- A. Building Permits for the erection, construction, reconstruction, or exterior rehabilitation, remodeling, alteration or restoration of any building or structure in a Historic Overlay District, except as qualified in Par. 4 below;
- B. Building Permits for the demolition, razing, relocation, or moving of any building or structure in a Historic Overlay District; and
- C. Sign Permits for the erection, alteration, refacing or relocation of any sign in a Historic Overlay District.

4. ARB approval shall not be required prior to issuance of Building Permits by the Director for the following:

- A. Building Permits for the interior alteration of any building or structure in a Historic Overlay District;
- B. Building Permits for additions to buildings and structures or for accessory structures when such proposed development is not visible from the public right-of-way or a contributing or historic property within a Historic Overlay District; or
- C. Building Permits for re-roofing and re-siding of non-contributing buildings or structures within a Historic Overlay District when the replacement roofing or siding is similar in color, material and texture to that which is being replaced; or
- D. Building Permits for signs which have been previously approved by the ARB during review of the sign permit application.

FAIRFAX COUNTY ZONING ORDINANCE

5. ARB procedures for the review of Building Permits and sign permits, as required by Par. 3 above, shall be in accordance with the following:
- A. The applicant shall forward to the ARB copies of the Building Permit or sign permit application, including any accompanying materials filed with such application;
 - B. The ARB may request any or all of the information set forth in Par. 6 below to assist in its review of an application;
 - C. In reviewing applications, the ARB shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the Historic Overlay District. The ARB shall consider the following in determining the appropriateness of architectural features:
 - (1) The exterior architectural features, including all signs, which are visible from a public right-of-way or contributing or historic property;
 - (2) The general design, size, arrangement, texture, material, color and fenestration of the proposed building or structure and the relation of such factors to similar features of historic or contributing buildings or structures within the Historic Overlay District;
 - (3) The extent to which the building, structure or sign would be harmonious with or architecturally incompatible with historic or contributing buildings or structures within the district;
 - (4) The extent to which the building or structure will preserve or protect historic places and areas of historic significance in the County;
 - (5) The extent to which the building or structure will promote the general welfare of the County and all citizens by the preservation and protection of historic places and areas of historic interest in the County.
 - D. In reviewing an application for a Building Permit to raze or demolish a building or structure, the ARB shall review the circumstances and the condition of the structure or part proposed for demolition and make its determination based on consideration of any or all of the following criteria:
 - (1) Is the building of such architectural or historical interest that its removal would be to the detriment of the public interest?
 - (2) Is the building of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?
 - (3) Would retention of the building help preserve and protect a historic place or area of historic interest in the County?
 - (4) Does the building or structure contribute to the significance of the district?

OVERLAY AND COMMERCIAL REVITALIZATION DISTRICT REGULATIONS

E. In reviewing an application for a Building Permit to move or relocate a building or structure, the ARB shall consider the following criteria:

(1) Would the proposed relocation have a detrimental effect on the structural soundness of the building or structure?

(2) Would the proposed relocation have a detrimental effect on the historical aspects of other historic or contributing properties in the Historic Overlay District?

(3) Would relocation provide new surroundings that would be harmonious with or incongruous to the historical and architectural aspects of the structure or building?

(4) Would relocation of the building help preserve and protect a historic place or area of historic interest in the County?

(5) Does the building or structure contribute to the significance of the district?

F. The ARB, on the basis of the information received from the applicant and from its general background and knowledge, and upon application of the appropriate criteria set forth in this Par. 5 and Par. 7 below shall approve, approve with modifications, or disapprove the application. If the ARB approves or approves with modification the application, it shall authorize the Director to issue the Building Permit or the Zoning Administrator to approve the sign permit. If the ARB disapproves the application, it shall so notify the applicant and the Director or the Zoning Administrator.

6. For all applications and plans subject to ARB review, the ARB may require the submission of any or all of the following information and any other materials as may be deemed necessary for its review.

A. Statement of proposed use, name of proposed user;

B. Statement of estimated time of construction;

C. Maps relating proposed use to surrounding property, zoning, and the historic district;

D. A plan showing building configuration, topography, grading and paving;

E. Architectural schematic drawings showing floor plans, all exterior elevations (principal one in color);

F. Color photographs of the property to be changed, adjacent properties, and similar properties within or near the district that clearly show the visual character of the surrounding area;

FAIRFAX COUNTY ZONING ORDINANCE

- G. A plan and section drawings of the site showing the relationship between new construction and existing structures indicating building heights, ground elevations, and the general location of existing and proposed plant materials;
 - H. A landscaping plan showing the location and identification of existing and proposed plantings, landscape features such as fences, gates, retaining walls, and paving, a listing indicating the name and size of proposed plantings, and the limits of clearing;
 - I. A plan showing exterior signs, graphics, and lighting to establish location, size, color, and type of materials; and
 - J. Samples, descriptive literature, or photographs showing the type and color of fixtures to be installed and primary building materials including foundation, cladding, trim, and roofing.
7. To facilitate the review of applications, the ARB shall formulate and adopt guidelines for new construction and the exterior alteration of existing buildings, structures, and sites located within Historic Overlay Districts based on the following standards:
- A. A property should be used for its historic purpose or be adapted for a new use that requires minimal change to the defining characteristics of the building, its site, and its environs.
 - B. The historic character of a property should be retained and preserved; the removal of historic materials or alteration of features and spaces that characterize a property should be avoided.
 - C. Changes that create a false sense of historical development should not be undertaken.
 - D. Most properties change over time and those changes that have acquired historic significance in their own right should be retained and preserved.
 - E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property should be preserved.
 - F. Deteriorated historic features should be repaired rather than replaced unless the severity of deterioration requires replacement of a distinctive feature; the new feature should match the old in design, color, texture, and other visual qualities, and, where possible, materials; replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.
 - G. Harsh chemical or abrasive treatments that cause damage to historic materials should not be used; the surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.
 - H. Significant archaeological resources affected by a project should be protected and preserved; if such resources must be disturbed, mitigation measures should be undertaken.

OVERLAY AND COMMERCIAL REVITALIZATION DISTRICT REGULATIONS

- I. New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property; new work should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environs.
- J. New additions or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environs would be unimpaired.
- K. Site design, including the placement of structures, shaping of landforms, and use of plant materials should be undertaken in such a manner that the visual characteristics and physical integrity of a historic property and its environs is preserved and enhanced.
- L. New construction associated with new development should be undertaken in a manner that is compatible and complimentary to the existing character of the historic district.

8. Approval authorizing issuance of a Building Permit or a sign permit by the ARB, or Board of Supervisors on appeal as provided for below, shall be valid for two (2) years or for such longer period as may be deemed appropriate by the approving body from the date of approval or from December 6, 1994 whichever occurs later, and shall continue for the life of the Building Permit or sign permit.

However, if no Building Permit or sign permit has been issued within the initial approval period, the ARB may grant an extension of the approval for a period not to exceed one (1) year provided the applicant requests an extension prior to the original expiration date and the ARB finds that the proposed project and conditions within the Historic Overlay District are essentially the same as when the approval was first granted.
9. Any person aggrieved by any decision of the ARB may appeal such decision to the Board of Supervisors, provided such appeal, which specifies the grounds for appeal, is filed in writing with the Clerk to the Board of Supervisors within thirty (30) days of the ARB's decision.
10. The Board shall review the action of the ARB and shall decide the appeal. The Board may affirm, reverse, or modify the decision of the ARB, and its determination shall be forwarded to the Director.
11. Any person or persons jointly or severally aggrieved by any decision of the Board of Supervisors, or any officer, department, board or agency of the County, may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Board of Supervisors, provided such petition is filed within thirty (30) days after the final decision is rendered by the Board. The filing of said petition shall stay the decision of the Board pending the outcome of the appeal to the Court, except that the filing of such petition shall not stay the decision of the Board if such decision denies the right to raze or demolish any building, or structure. The Court may reverse or modify the decision of the Board, in whole or in part, if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Board.

FAIRFAX COUNTY ZONING ORDINANCE

12. In addition to the right of appeal set forth in Par. 9, 10, and 11 above, the owner of a building or structure, the razing or demolition of which is subject to the provisions of Par. 2 of Sect. 206 below, shall, as a matter of right, be entitled to raze or demolish such building or structure, provided that:
 - A. The owner has applied to the ARB and Board of Supervisors for such right;
 - B. The owner has for the period of time set forth in the time schedule below and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to the County or to any department, officer, agency, board or government entity thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore such building or structure and the land pertaining thereto; and
 - C. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule below.

Any appeal which may be taken to the Court from the decision of the Board of Supervisors, 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. No offer to sell shall be made more than one (1) year after a final decision by the Board of Supervisors, but thereafter the owner may renew the request to the Board to approve the razing or demolition of the building or structure. 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.

7-205

Permitted Uses

Within an adopted Historic Overlay District, all uses shall be permitted pursuant to the district regulations of the zoning district(s) in which such Historic Overlay District is located; except as