

Chapter 12 - HISTORIC PRESERVATION^[1]

Footnotes:

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State Law reference— Demolition of historic structures, penalty, Code of Virginia, § 15.2-819; authority to acquire and preserve historical places, structures and items, Code of Virginia, § 15.2-944; notice of sale, etc., Code of Virginia, § 15.2-944.1; authority to adopt ordinance regarding historic landmarks, etc., Code of Virginia, § 15.2-2306.

ARTICLE I. - IN GENERAL

Sec. 12-1. - Purpose.

- (a) The intent of this chapter is to promote and protect the health, safety, comfort, recreation, prosperity, and general welfare of the community through the identification, preservation, and enhancement of buildings, structures, sites, neighborhoods, landscapes, places and areas which have special historical, cultural, artistic, architectural or archaeological significance as provided by Code of Virginia, § 15.2-2306, as amended.
- (b) It is hereby recognized that the deterioration, destruction or alteration of such buildings, structures, sites, neighborhoods, landscapes, places, and areas may cause the permanent loss of unique resources which are of great value to the people of the Town of Kenbridge, the State of Virginia and the Nation, and that the special controls and incentives are warranted to ensure that such losses are avoided when possible.
- (c) The purposes for establishing a special historic preservation chapter are:
 - (1) To preserve and improve the quality of life for residents of the town by protecting familiar and reassuring visual elements in the area.
 - (2) To promote tourism investment and business growth by protecting historical and cultural resources attractive to visitors and thereby supporting local business and industry.
 - (3) To stabilize and improve property values by providing incentives for the upkeep and rehabilitation of older structures and by encouraging desirable uses and forms of economic development.
 - (4) To educate residents on the local cultural and historic heritage as embodied in the historic districts and properties and to foster a sense of pride in this heritage.
 - (5) To promote local historic preservation efforts and to encourage the identification and nomination of qualified historic properties and districts to the National Register of Historic Places and the state landmarks register.
 - (6) To prevent the encroachment of additions or new buildings and structures which are architecturally incongruous with their environs within areas of architectural harmony and historic character.
 - (7) To recognize and develop the historic areas as integral parts of the town so that succeeding generations may build with the quality and sensitivity of past generations.

(Ord. of 4-15-2003, § 4-120)

Sec. 12-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change, modification, or addition to a part of or all of the exterior of any building or structure.

Building means any enclosed or open structure which is a combination of materials to form a construction for occupancy or use.

Building official means that person appointed by the town manager as the individual who supervises construction, alteration, reconstruction or demolition pursuant to this chapter.

Certificate of appropriateness means the approval statement signed by the chairperson of the historic preservation commission which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building within a historic district, subject to the issuance of all other regional permits needed for the matter sought to be accomplished.

Commission means the Town of Kenbridge Historic Preservation Commission.

Contributing properties means properties so designated on the inventory map of historic districts and properties which is adopted as a part of this chapter, being generally those properties which by reason of form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the part of the historic district in which they are located.

Demolition means the dismantling or tearing down of all or part of any building and all operations incidental thereto.

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building, structure or object, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, and other appurtenant architectural fixtures, details, features, or elements.

Exterior environmental features means all those aspects of the landscape or the development of a site which affect the historical character of the property including trees, shrubbery, plantings, walks, fences, walls, signs, lights, and other appurtenances and elements.

Historic district means a geographically definable area consisting of public and/or private property within the town, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A historic district shall further mean an area designated by the town council as a historic district pursuant to the criteria established in sections 12-75 and 12-76.

Historic property means an individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the town council as a historic property pursuant to the criteria established in sections 12-75 and 12-76.

Material change in appearance means a change that will affect either the exterior architectural or environmental features of a historic property or any contributing or non-contributing building, structure, site, object or landscape feature within a historic district, such as:

- (1) Reconstruction or alteration of the size, shape, or facade of a historic building, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements.
- (2) Demolition or relocation of a historic structure.
- (3) Commencement of excavation for construction purposes.
- (4) Change in the location of advertising visible from the public right-of-way.
- (5) The erection, alteration, restoration or removal of any building or other structure within a historic property or district, including walls, fences, steps, and pavements, or other appurtenant features.
- (6) New construction within a historic district.

New construction means any construction within a historic district which is independent and exclusive of an existing building or structure or part thereof in the historic district.

Non-contributing properties means properties so designated on the inventory map of historic districts and properties which is adopted as a part of this chapter, being generally those properties which by reason of age, condition, amount of alterations, form, materials, architectural details and relation to surrounding properties do not contribute favorably to the general character of the part of the historic district in which they are located.

Object means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

Reconstruction means any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.

Repairs means any work or all work involving the replacement of existing material with equivalent material for the purpose of maintenance, but not including any addition, change or modification in construction.

Restoration means any or all work connected with the returning to or restoring of a building, or part of any building, to its original condition through the use of original or nearly original materials.

Site means the location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

Structure means anything manmade that is a work made up of interdependent and interrelated parts in a definite pattern of organization.

(Ord. of 4-15-2003, § 4-121)

Secs. 12-3—12-22. - Reserved.

ARTICLE II. - HISTORIC PRESERVATION COMMISSION²¹

Footnotes:

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State Law reference— Authority to create review board, Code of Virginia, § 15.2-2306(A)(1).

Sec. 12-23. - Creation; title.

There is hereby created a commission whose title shall be "Town of Kenbridge Historic Preservation Commission" (hereinafter "commission").

(Ord. of 4-15-2003, § 4-122(1))

Sec. 12-24. - Membership number.

The commission shall consist of five voting members appointed by the town council. All members shall be residents of the town.

(Ord. of 4-15-2003, § 4-122(2))

Sec. 12-25. - Terms.

- (a) Members shall serve three-year staggered terms. Members may be reappointed for consecutive terms. In order to achieve staggered terms, initial appointments shall be:
 - (1) One member for one year;
 - (2) Two members for two years; and
 - (3) Two members for three years.
- (b) The term of any member who is also a member of the planning commission shall be concurrent with his appointment to the planning commission.
- (c) A new appointment shall be made by the town council for any unexpired term within 60 days after it becomes vacant.

(Ord. of 4-15-2003, § 4-122(3))

Sec. 12-26. - Conflict of interest.

No member shall participate in the selection, award, or administration of a contract, a sub-contract, or agreement or participate in the discussion or vote on any matter or take any action in his capacity as a member if a conflict of interest, real or apparent, would be involved as defined by the Code of Virginia, title 40.1, and Code of Virginia, § 2.2-3100 et seq. No member, nor any member of his immediate family, nor his partner or any organization which employs or is about to employ any of the above may have a financial or personal interest in any matter of any kind being considered by the commission.

(Ord. of 4-15-2003, § 4-122(4))

State Law reference— Local government conflict of interests, Code of Virginia, § 2.2-3100 et seq.

Sec. 12-27. - Removal of members.

Any appointed member of the commission may be removed from office by the town council for inefficiency, neglect of duties, or malfeasance. An appointment to fill a vacancy shall be only for the unexpired term on the vacancy.

(Ord. of 4-15-2003, § 4-122(5))

Sec. 12-28. - Powers and responsibilities.

The commission shall have the following powers:

- (1) To issue or deny certificates of appropriateness for any material change in appearance including construction, reconstruction, exterior alteration, demolition, or relocation of contributing or non-contributing properties within the historic districts and for individually designated historic properties with the exceptions of ordinary maintenance and repair items listed in section 12-228;
- (2) To assist and advise the town council, the planning commission, and other town departments, agencies, and property owners in matters involving historically significant sites and buildings or other properties in historic districts. Upon request of the commission and with approval of the town manager, the departments, agencies, boards, commissions, and other offices of town government shall furnish to the commission such available information and render it such service as may be required for the exercise of the powers and performance of the duties and functions of

the commission. All town departments and agencies responsible for individually designated historic properties or for properties within a historic district shall make application to the commission for review and recommendation for any project related to construction, reconstruction, substantial exterior alteration, demolition, or relocation;

- (3) To continuously evaluate and recommend to the planning commission and the town council specific places, areas, neighborhoods, landscapes, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
- (4) To adopt standards or guidelines for review and approval by the town council to supplement the standards set forth in this chapter;
- (5) To conduct educational programs on historic properties and districts located within the town and on general historic preservation activities;
- (6) To prepare and submit an annual budget to the town council and seek out local, state, federal, or private funds for historic preservation with consent of the town council, and make recommendations to the town council concerning the most appropriate uses of any funds acquired;
- (7) To receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The commission shall not obligate the town without prior consent and the commission shall ensure that these funds do not displace any appropriated governmental funds;
- (8) To employ qualified persons, if necessary, to advise and assist the commission within the limits of funds that may be made available to the commission for the performance of its work;
- (9) To review and make comments to the state department of historic resources concerning the nomination of districts and properties within its jurisdiction to the National Register of Historic Places and to the state landmarks register with consent of the town council;
- (10) To participate in private, state and federal historic preservation programs and, with the consent of the town council, enter into agreements to do the same; and
- (11) To perform other historic preservation activities as the official agency of the town's historic preservation program.

(Ord. of 4-15-2003, § 4-122(6))

Sec. 12-29. - Commission's power to adopt rules and standards.

The commission may adopt rules and standards for the transaction of its business such as bylaws and design guidelines and criteria without amendment to this chapter as approved by the town council. The commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The commission shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members.

(Ord. of 4-15-2003, § 4-122(7))

Secs. 12-30—12-46. - Reserved.

ARTICLE III. - HISTORIC PRESERVATION DISTRICTS AND PROPERTIES

DIVISION 1. - GENERALLY

Sec. 12-47. - Research.

Preliminary research shall be performed by the commission.

(Ord. of 4-15-2003, § 4-123(1))

Sec. 12-48. - Designation of historic districts.

The following areas have been designated as historic districts:

- (1) East 5th Avenue from Hawthorne Street to Broad Street.
- (2) South Broad Street from 5th Avenue to Forest Hills Drive and also including house numbers 905 and 915 on South Broad Street.
- (3) North Broad Street from 5th Avenue to North Circle Boulevard.
- (4) East 6th Avenue from South Decatur Street to South Broad Street and also including 300 East 6th Avenue.
- (5) West 6th Avenue from Main Street to South Broad Street.
- (6) South Station Street from Main Street to West 6th Avenue.
- (7) Church Street between East 4th Avenue and East 5th Avenue.
- (8) Pine Street between East 4th Avenue and East 6th Avenue.
- (9) Individual properties on East 4th Avenue, house numbers 413 and 501.

(Ord. of 4-15-2003, attach.)

Sec. 12-49. - Inventory map of local historical resources established.

The commission shall prepare and recommend for adoption as a part of this chapter an inventory map covering the areas to be considered for inclusion as historic districts and/or historic properties and based upon the criteria set forth in this chapter. This map, hereinafter called the "inventory map," when adopted shall be as much a part of this chapter as if fully described herein and shall be filed as a part of this chapter by the town clerk. All structures shall be considered as contributing or non-contributing structures for the purposes of this chapter. Structures or sites designated as properties which contribute to the historic character of the town shall be known as contributing properties for the purpose of this chapter. Structures or sites not designated as contributing properties shall be known as non-contributing properties. The inventory map may be amended from time to time in the same manner as the zoning district map. The commission shall compile and collect such information and conduct surveys of historic resources within the town with the assistance of the Historic Kenbridge Foundation.

(Ord. of 4-15-2003, § 4-123(1)(a))

Sec. 12-50. - Commission's power to recommend districts and buildings to the town council.

The commission shall present to the town council recommendations for historic districts and historic properties.

(Ord. of 4-15-2003, § 4-123(1)(b))

Secs. 12-51—12-74. - Reserved.

DIVISION 2. - DESIGNATION OF A HISTORIC DISTRICT OR HISTORIC PROPERTY

Sec. 12-75. - Criteria for selection of historic district.

A historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, which:

- (1) Have special character or special historic/aesthetic value or interest;
- (2) Represent one or more periods, styles, or types of architecture typical of one or more eras in the history of the town, state, or region; and
- (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the town.

(Ord. of 4-15-2003, § 4-123(2)(a))

Sec. 12-76. - Criteria for selection of a historic property.

A historic property is a building, structure, site, or object, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the town, state, or region, for one of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of a past architectural style;
- (3) It is a place or structure associated with an event or persons of historic or cultural significance to the town, state, or the region; or
- (4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the town, state, or region.

(Ord. of 4-15-2003, § 4-123(2)(b))

Sec. 12-77. - Boundaries of a historic district or historic property.

Boundaries of a historic district or a historic property shall be included in the separate ordinances designating such districts and properties and shall be shown on the official zoning map of the town.

(Ord. of 4-15-2003, § 4-123(2)(c))

Sec. 12-78. - Requirements for adopting an ordinance for the designation of historic districts and historic properties.

- (a) *Criteria for establishing historic district's general character.* The boundaries of the historic district shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.
- (b) *Inventory of landmarks and contributing properties established.* The town has established as part of this chapter an inventory map covering the area included in the historic district, based on criteria set forth in this chapter. This map, herein after called the inventory map, shall be as much a part of this chapter as if fully described herein and shall be filed as a part of this chapter by the town clerk. Structures or sites designated as properties which contribute to the historic character of the town shall be known as contributing properties for the purpose of this chapter. Structures or sites not designated

as landmark or contributing properties shall be known as non-contributing properties. The inventory map may be amended from time to time in the same manner as the zoning district map.

- (c) *Division relation to town codes and other ordinances.* Whenever the regulations of this division require more restrictive standards than are required in or under any other statute or ordinance, the requirements of this division shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this division, the provisions of such statute or ordinance shall govern.

(Ord. of 4-15-2003, § 4-123(3))

Secs. 12-79—12-99. - Reserved.

ARTICLE IV. - CERTIFICATE OF APPROPRIATENESS

DIVISION 1. - GENERALLY

Secs. 12-100—12-126. - Reserved.

DIVISION 2. - APPLICATION TO COMMISSION

Sec. 12-127. - Approval of material change in appearance in historic districts or involving historic properties.

After the designation by ordinance of a historic property or of a historic district, no material change including construction, reconstruction, exterior alteration, demolition, or relocation that affects the appearance of such historic property, or of a contributing or non-contributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the commission. A certificate of appropriateness shall be required whether or not a building permit is required. Ordinary maintenance and repair items such as those listed in section 12-228 are exempt from review.

(Ord. of 4-15-2003, § 4-124(1))

Sec. 12-128. - Pre-application conference with staff.

Prior to the formal submission of a proposed plan of erection, demolition, alteration, or removal of buildings controlled by this chapter, the applicant or his representative is encouraged to meet with the designated staff of the commission concerning the proposed plan of action and submit unofficial preliminary studies, a written description, drawings, photographs, and plans of the concept of the proposed action for tentative review, comments, and recommendations.

(Ord. of 4-15-2003, § 4-124(2))

Sec. 12-129. - Submission of plans to commission.

An application for a certificate of appropriateness shall be accompanied by a written description, drawings, photographs, plans, and documentation as required by the commission and as further set forth on the application for the certificate of appropriateness. This application shall be made at least 15 working days prior to the date of the meeting at which the request is to be discussed.

(Ord. of 4-15-2003, § 4-124(3))

Sec. 12-130. - Interior alterations.

In its review of applications for certificate of appropriateness, the commission shall not consider an interior arrangement or use having no effect on exterior architectural features.

(Ord. of 4-15-2003, § 4-124(4))

Sec. 12-131. - Technical advice.

The commission shall have the power to seek technical advice from outside its members on any application subject to funds being available for such purposes.

(Ord. of 4-15-2003, § 4-124(5))

Secs. 12-132—12-160. - Reserved.

DIVISION 3. - CRITERIA FOR ISSUANCE

Sec. 12-161. - Commission options.

- (a) The commission may approve the certificate of appropriateness as proposed, approve the certificate of appropriateness with any modifications it deems necessary, or reject it.
- (b) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change in the appearance would not have a substantial adverse effect on the aesthetic, cultural, historic, or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the criteria in the following sections.

(Ord. of 4-15-2003, § 4-124(6)(a)(intro.))

Sec. 12-162. - Reconstruction, alteration, new construction, or renovation.

The commission shall issue certificates of appropriateness for the above proposed actions if those actions conform in design, scale, building material, setbacks and landscaping.

(Ord. of 4-15-2003, § 4-124(6)(a)(i))

Sec. 12-163. - Relocation criteria.

A decision by the commission approving or denying a certificate of appropriateness for the relocation of a building, structure, or object shall be guided by:

- (1) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object.
- (2) The importance of the building, structure, site, or object to the ambiance of a district.
- (3) Whether there are definite plans for the property to be vacated and what the effect of those plans on the character of the surrounding area will be.

- (4) Whether the building, structure, or object can be moved without significant damage to its physical integrity.
- (5) Whether the proposed relocation area is compatible with the scenic, cultural, aesthetic, historical, and architectural character of the building, structure, site, or object.

(Ord. of 4-15-2003, § 4-124(6)(a)(ii))

Sec. 12-164. - Demolition criteria.

A decision by the commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites, or objects shall be guided by:

- (1) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object.
- (2) The importance of the building, structure, site, or object to the ambiance of a district.
- (3) The difficulty or the impossibility of reproducing such a building, structure, site, or object because of its design, texture, material, detail, or unique location.
- (4) Whether the building, structure, site, or object is one of the last remaining examples of its kind in the neighborhood or the town.
- (5) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.
- (6) Whether reasonable measures can be taken to save the building, structure, site, or object from collapse.
- (7) Whether the building, structure, site, or object is capable of earning reasonable economic return on its value.

(Ord. of 4-15-2003, § 4-124(6)(a)(iii))

Sec. 12-165. - Applications for demolition.

In the case of an application for demolition, if preservation is found by the commission to be physically or economically unfeasible, the commission shall issue the certificate of appropriateness. If preservation is found to be both physically and economically feasible, the commission shall take or promote the taking of whatever public or private action that seems likely to lead to such preservation, either on the site on which the structure is located or on another site to which it might appropriately be moved. Where preservation is feasible but the applicant still seeks demolition, the provisions in section 12-166, right to demolish, may be undertaken while alternatives for preservation are sought.

(Ord. of 4-15-2003, § 4-124(6)(a)(iv))

Sec. 12-166. - Right to demolish.

The owner of a historic property or the owner of a building, structure, site, or object in any historic district, shall, as a matter of right, be entitled to raze or demolish such building or structure, provided that:

- (1) The owner has applied to the commission for such right. If the demolition request is denied by the commission, the owner may appeal this decision to the town council.
- (2) The owner has, for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, structure, site, or object, and the land pertaining therein to such town or municipality or to any

person, firm, corporation, government, or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building, structure, site or object, and the land pertaining thereto.

(Ord. of 4-15-2003, § 4-124(6)(a)(v))

Sec. 12-167. - Undue hardship.

The commission shall have the power to reduce or suspend any of the requirements of this chapter, if the property presents special circumstances whereby the strict compliance of this chapter will produce an undue hardship or if the spirit of the chapter has been met and deviation has been deemed to be in the best interest of the town.

(Ord. of 4-15-2003, § 4-124(6)(a)(vi))

Sec. 12-168. - Deadline for approval or rejection of application for certificate of appropriateness.

- (a) The commission shall approve or reject an application for a certificate of appropriateness within 45 calendar days after the filing date thereof by the owner or occupant of a historic property, or of a building, structure, site, or object located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission. Notice of the issuance of approval or denial of a certificate of appropriateness shall be sent by the United States mail to the applicant and all other persons who have requested such notice in writing filed with the commission within 15 calendar days of the date of the decision.
- (b) Failure of the commission to act within said 45 calendar days shall constitute approval, and the certificate of appropriateness shall be issued, unless the applicant agrees to an extension of time in writing.

(Ord. of 4-15-2003, § 4-124(6)(a)(vii))

Sec. 12-169. - Necessary action to be taken by the commission upon rejection of application for certificate of appropriateness.

- (a) In the event the commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
- (b) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the commission shall be binding upon the building official or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.

(Ord. of 4-15-2003, § 4-124(6)(a)(viii))

Sec. 12-170. - Requirement of conformance with certificate of appropriateness.

All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. When a certificate of appropriateness has been issued, the building official may from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any

ordinances of the town. The building official may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

(Ord. of 4-15-2003, § 4-124(6)(a)(ix))

Sec. 12-171. - Certificate of appropriateness time constraints.

- (a) Certificates of appropriateness shall be issued for a period of 12 months. On written request from an applicant, the commission may grant a single extension of its approval for a period of up to one additional year if, based upon submissions from the applicant, the commission finds that conditions on the site and in the area of the proposed project are essentially the same as when approval originally was granted.
- (b) Any certificate of appropriateness shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article shall be excluded from the computation of the 12 months.

(Ord. of 4-15-2003, § 4-124(6)(a)(x))

Sec. 12-172. - Recording of applications for certificate of appropriateness.

The commission shall keep a public record of all applications for certificates of appropriateness, and of all the commission's proceedings in connection with said application.

(Ord. of 4-15-2003, § 4-124(6)(a)(xi))

Sec. 12-173. - Acquisition of property.

The commission may, where such action is authorized by the town council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, to the property or any interest therein.

(Ord. of 4-15-2003, § 4-124(6)(a)(xii))

Secs. 12-174—12-199. - Reserved.

ARTICLE V. - APPEALS³

Footnotes:

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State Law reference— Appeal to circuit court, Code of Virginia, § 15.2-2306(A)(3).

Sec. 12-200. - Procedure and timeline.

An appeal from a decision of the historic district preservation commission may be taken to the town council by the owner of the property in question or by any party aggrieved by said decision, which shall be taken within 30 days after the decision appealed from by filing with the administrator a notice of appeal

specifying the grounds thereof. The administrator shall forthwith transmit to the town council all the papers constituting the record upon which the action appealed from was taken. The town council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within 60 days. At the hearing the appealing party may appear in person or by agent. In exercising its powers, the town council may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the historic district review board.

(Ord. of 4-15-2003, § 4-124(6)(a)(xiii)1)

Sec. 12-201. - Appeal to historic district review board.

An appeal from a decision of the zoning administrator may be taken to the historic district review board by the owner of the property in question or by any party aggrieved by said decision, shall be taken within 30 days after the decision appealed from by filing with the administrator a notice of appeal specifying the grounds thereof. The administrator shall forthwith transmit to the historic district review board all the papers constituting the record upon which the action appealed from was taken. The historic district review board shall fix a reasonable time for the meeting, give public notice thereof as required pursuant to Code of Virginia, § 15.2-2204, and decide the same within 60 days. At the meeting the party may appear in person or by agent. In exercising its powers, the historic district review board may reverse or affirm, wholly or partly, or may modify, any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made.

(Ord. of 4-15-2003, § 4-124(6)(a)(xiii)2)

Sec. 12-202. - Appeal to circuit court.

- (a) An appeal from a final decision of the town council may be filed with the circuit court within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the historic district review board or by any party aggrieved by said decision or by any party who recorded an appearance at the hearing before the town council. The filing of an appeal shall stay the decision of the town council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the town council if such decision denies the right to raze or demolish a designated landmark, building, or structure. The court may reverse or modify the decision of the town council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the town council.
- (b) If the town council fails to approve the application, an appeal may be filed by the property owner or any aggrieved person, firm, or corporation with the county circuit court within 30 days of the town council decision.

(Ord. of 4-15-2003, § 4-124(6)(a)(xiii)3, 4)

State Law reference— Appeal to circuit court, Code of Virginia, § 15.2-2306(A)(3).

Secs. 12-203—12-227. - Reserved.

ARTICLE VI. - MAINTENANCE AND REPAIRS

Sec. 12-228. - Ordinary maintenance or repair.

Ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property or a building, structure, site or object within a historic district to correct deterioration, decay or damage, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a certificate of appropriateness. Such actions shall include the following and any similar actions which, in the opinion of the commission or its designated staff, will have no more effect on the character of the district than those listed:

- (1) Repainting resulting in the same color. (Original painting of masonry surfaces is not exempted from review.)
- (2) Replacing broken window panes, missing roof shingles, or missing features with matching in-kind materials.
- (3) Addition or deletion of storm windows and doors, window-box gardens, awnings, temporary canopies, window air conditioners, or similar appurtenances.
- (4) Addition or deletion of television or radio antennas, skylights or solar collectors in locations not visible from a public street.
- (5) Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a site or involves landscaping or construction of parking areas, fences, walls, walkways, pools, fountains and the like which materially affect the appearance of a site and which is visible from a public street.
- (6) Any changes to a structure which are not visible from a public street. Provided, however, that the commission or designated staff shall have authority to order that work be stopped and that an appropriate application be filed for review in any case where in his opinion the action may produce the loss or irreparable changes to character-defining features of the building or arresting and spectacular effects, violent contrasts of materials or colors and intense and lurid colors or patterns, or a multiplicity of incongruous details clearly inconsistent with the character of the present structures or with the prevailing character of the surroundings and the historic district.

(Ord. of 4-15-2003, § 4-125(1))

Sec. 12-229. - Failure to provide ordinary maintenance or repair.

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The commission shall be charged with the following responsibilities regarding deterioration by neglect:

- (1) The commission shall monitor the condition of historic properties and existing buildings, structures, sites, and objects in historic districts to determine if they are being allowed to deteriorate by neglect.
- (2) Examples of such decay, deterioration or defects which, in the opinion of the commission, may result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, include but are not limited to:
 - a. The deterioration of exterior walls or other vertical supports;
 - b. The deterioration of roofs or other horizontal members;
 - c. The deterioration of exterior chimneys;
 - d. The deterioration or crumbling of exterior plaster or mortar;
 - e. The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
 - f. The peeling of paint, rotting, holes and other forms of decay;

- g. The lack of maintenance of surrounding environment (e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping);
- h. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions; or
- i. Signs that are not in good condition may be removed by the building official if not repaired by the owner within six months of a written request.

(Ord. of 4-15-2003, § 4-125(2))

Sec. 12-230. - Notice.

In the event the commission determines a failure to provide ordinary maintenance or repair, the commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property will have 30 days in which to begin corrective action of the situation and completion shall be done in a timely manner. Thereafter, each day during which there exists any violation of this article shall constitute a separate offense and shall be punishable as provided in article 13 of the zoning code (appendix B to this Code).

(Ord. of 4-15-2003, § 4-125(3))

Sec. 12-231. - Owner liable for costs.

In addition to the remedies set forth in this article and, at the direction of the town council, the commission may request that staff, after due notice to the owner, enter the property and make or cause to be made such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the commission and staff. If these costs are not paid by the owner within 60 days, a lien shall be placed against the property.

(Ord. of 4-15-2003, § 4-125(4))

Sec. 12-232. - Affirmation of existing building and zoning codes.

Nothing in this chapter shall be construed to exempt property owners from complying with existing town building and zoning codes, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

(Ord. of 4-15-2003, § 4-125(5))