

AN ORDINANCE AMENDING APPENDIX “A” OF THE CITY CODE, ENTITLED “ZONING”, ARTICLE 12, SECTIONS 12-706, 12-707, 12-708, AND 12-722 THEREOF, AND THE SOUTH NORFOLK HISTORIC AND CULTURAL PRESERVATION OVERLAY DISTRICT (HC DISTRICT) DESIGN GUIDELINES TO AMEND THE REQUIREMENTS FOR THE ISSUANCE OF ADMINISTRATIVE CERTIFICATES OF APPROPRIATENESS; TO DEFINE CONTRIBUTING AND NON-CONTRIBUTING BUILDINGS, STRUCTURES, AND LANDMARKS AND ESTABLISH GUIDELINES FOR THE ISSUANCE OF CERTIFICATES OF APPROPRIATENESS, INCLUDING ADMINISTRATIVE CERTIFICATES OF APPROPRIATENESS, FOR RENOVATIONS, ALTERATIONS, REPAIR, DEMOLITION, AND RELOCATION OF SUCH BUILDINGS, STRUCTURES, LANDMARKS, LANDSCAPING, HARDSCAPING, AND OTHER FEATURES WITHIN THE HC DISTRICT; TO REVISE GUIDELINES GOVERNING THE ADMINISTRATION OF THE HC DISTRICT; TO AMEND REQUIREMENTS FOR THE ISSUANCE OF CERTIFICATES OF APPROPRIATENESS FOR NEW CONSTRUCTION, ADDITIONS, RENOVATIONS, ALTERATIONS, REPAIR, DEMOLITION AND RELOCATION OF BUILDINGS, STRUCTURES, LANDMARKS, OR FEATURES WITHIN THE HC DISTRICT; AND TO AMEND THE HC DISTRICT ORDINANCE AND HC DISTRICT DESIGN GUIDELINES CONSISTENT WITH THE ABOVE.

WHEREAS Appendix “A” of the Chesapeake City Code, entitled “Zoning” Article 12, Sections 12-706 and 12-707 require that substantive changes and amendments to the Procedural and Architectural Guidelines of the Board of Historic and Architectural Review be enacted in the same manner as amendments to the City Zoning Ordinance; and

WHEREAS Appendix “A” of the Chesapeake City Code, entitled “Zoning” Article 12, Section 12-722, currently identifies the applicable guidelines as “South Norfolk Historic and Cultural Preservation Overlay District Design Guidelines, 2015 edition;” and

WHEREAS the Council of the City of Chesapeake finds the public necessity, convenience, general welfare and good zoning practice so require;

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix “A” of the Chesapeake City Code, entitled “Zoning” Article 12, Sections 12-706, 12-707, 12-708, and 12-722 be amended and reenacted as follows:

ARTICLE 12 – SPECIAL OVERLAY DISTRICTS

§ 12-706. Procedural guidelines.

In establishing the HC district, the city council shall approve procedural guidelines designed to govern the actions of the review board. The procedural guidelines shall include (i) provisions for administrative regulations to be followed by the review board; (ii) criteria for determining whether properties, buildings, structures, and landmarks possess historical or cultural significance and are thereby designated as contributing or non-contributing; (iii) criteria for ~~general~~ administrative and board approved certificates of appropriateness for particular classes of construction, alteration, preservation, maintenance, repair and renovation of contributing and non-contributing buildings and structures and ground surfaces and hardscape; and ~~(iv)~~ criteria for the issuance of temporary certificates of appropriateness. ~~Substantive C~~changes to the procedural guidelines ~~relating to~~ ~~criteria for general certificates of appropriateness and temporary certificates of appropriateness~~ may be amended only by city council in the same manner as amendments to the zoning ordinance. ~~Other aspects of the procedural guidelines may be amended by majority vote of the members appointed to the review board, provided all such changes are consistent with this ordinance.~~

§ 12-707. Architectural guidelines and standards.

In establishing and amending the HC district, the city council shall approve architectural guidelines and standards ("architectural guidelines") designed to protect and preserve the historic and cultural significance of the district. The review board shall be responsible for administering the architectural guidelines and shall exercise reasonable discretion in applying the criteria in a uniform and consistent manner. The

architectural guidelines shall include criteria for determining whether properties, buildings, structures, and landmarks possess historical or cultural significance and are thereby designated as contributing or non-contributing. Furthermore, tThe architectural guidelines may include, but need not be limited to, i) criteria for the construction, alteration, preservation, maintenance, repair, renovation, dismantling, relocation and demolition of buildings and structures and ground surfaces and hardscape, and ii) criteria for the design, maintenance and development of historic landmarks, areas, premises and significant routes of tourist access. The architectural guidelines may be amended only by city council in the same manner as amendments to the zoning ordinance. In addition to the notice required by Virginia law, the department of planning shall ensure that written notice of proposed amendments to the architectural guidelines is mailed or delivered to all registered civic leagues, leadership councils, and organized business associations operating within the portion of the HC district to be affected by the amendment. A registered organization shall be one that has advised the director of planning in writing of its desire to be notified of proposed amendments to the architectural guidelines.

§ 12-708. Certificate of appropriateness.

No building, structure (including signs), or landmark, or portion thereof, that is or will be visible from a paved public street shall be constructed, erected, extended, enlarged, altered, repaired, renovated, dismantled, demolished or moved unless and until a certificate of appropriateness has been issued by the review board, or in the case of ~~general~~ administrative certificates of ~~occupancy~~ appropriateness, by the director of planning, for such action. Notwithstanding the foregoing, no certificate of appropriateness shall be required for the following: (i) ordinary maintenance

activities and minor repairs, other than painting or replacement of siding, roofing, windows or doors, that do not require a building permit and that must be performed on a regular and relatively frequent basis to maintain architectural and structural integrity, provided that such maintenance or repair is performed using materials which are of the same design and type as those on the existing building, structure or landmark and which preserve the architectural defining features of said building, structure or landmark; (ii) removal of storm windows, storm doors, ~~canopies,~~ awnings, television and radio antennas, satellite dishes, or solar collectors, and (iii) the installation or removal of window air conditioner units or fans. Where certificates of appropriateness are required, the following shall apply:

- (a) *Applications, open meetings required.* Applications shall be made to the department of planning and shall be referred to the review board for comment and action, unless administrative ~~general~~ certification has been established as provided in subsection 12-708 (i) below. The review board shall hold a hearing open to the public on such application, at which time the applicant and other interested parties shall be permitted to comment on the application. The planning department shall be responsible for mailing or delivering written notice of the time, date and place of the open hearing to the applicant and adjacent property owners.
- (b) *Materials to be submitted for review.* In addition to the application, the review board may require submittal of any or all of the following in connection with an application for a certificate of appropriateness: architectural plans; site plans; proposed signs (including appropriate

detail as to character and location); exterior lighting plans; elevations of all portions of buildings and structures visible from a public street; construction materials; design plans for doors and windows; plans for exterior ornamentation, color and other architectural details; photographs or perspective drawings indicating visual relationships to adjoining structures and spaces; and such other exhibits and reports as the review board determines to be necessary to a final determination.

- (c) *Scheduling an open meeting.* A complete application shall be scheduled for a hearing before the review board within forty (40) days of filing and shall, unless otherwise provided herein, for new construction, additions or for the relocation, dismantling or demolition of a building, structure or landmark, take final action on such complete application within seventy (70) days of the initial filing, unless the applicant agrees to an extension, provided that all materials required for a full review of the application have been submitted as requested. Where emergency repairs to a building, structure or landmark are needed, the review board shall hear the application within five (5) business days, or as soon thereafter as circumstances permit.
- (d) *Standards of review.* The review board shall give due consideration of the application taking into consideration the nature of the proposal, the impact of the proposed action on the character and integrity of the HC district and the degree to which the proposed action conforms

with the intent of this ordinance and the standards in the architectural guidelines.

- (e) *Issuance of certificates for new construction, additions, improvements, and exterior alterations, renovations and repairs.*

After reviewing all materials submitted and conducting a field examination (if deemed necessary), the review board shall issue a certificate of appropriateness for all new construction, additions, improvements, exterior repairs, renovations and alterations to buildings, structures (including signs) and landmarks visible from a paved public street upon finding that the proposal is appropriate and meets the purpose and requirements of this ordinance and applicable architectural guidelines. Upon the request of an applicant, the review board may permit modification of the initial application if such modifications are clearly indicated by the applicant during the open meeting and made a matter of record by the review board.

Application and review procedures for the issuance of a certificate of appropriateness for new construction and additions shall be generally as set out above, however, the review board shall have one-hundred (100) days from the date a complete application is filed in which to take final action on such request.

- (f) *Denial of certificates for new construction, additions, improvements, and exterior alterations, renovations and repairs.* The review board shall deny an application for new construction if it finds that (i) the proposed action would adversely affect or be incompatible with the

character of the HC district or with the setting of buildings, structures, landmarks and areas of important public interest, (ii) the proposed action is not consistent with the intent of this ordinance, or (iii) the proposed action is not consistent with the architectural guidelines approved for the portion of the HC District in which the property under consideration is located. Where a certificate of appropriateness is denied, the review board shall record its reasons for denial.

- (g) *Issuance of certificate of appropriateness for moving or relocating buildings, structures and landmarks.* Except as provided in this subsection, no permit shall be issued for moving or relocating, by dismantling or other action, all or any significant part of a building, structure or landmark within the HC district without a certificate of appropriateness. Application and review procedures for the issuance of a certificate of appropriateness shall be generally as set out above for new construction and alterations, with appropriate modifications as to materials required for review in the particular case; provided that, however, the review board shall have one hundred (100) days from the date a complete application is filed in which to take final action on such request. Unless the board takes final action on the application to either deny or issue a certificate of appropriateness within this one hundred (100) day period, the city may issue a permit to move or relocate the building without the certificate, provided that all other ordinances of the city are met.

(h) *Issuance of certificate of appropriateness for demolition of buildings, structures and landmarks.* Except as provided in this subsection, no permit shall be issued for the dismantling or demolition of all or any significant part of a building, structure or landmark within an HC district ~~before approval by the review board is given by~~ prior to the issuance of a certificate of appropriateness or, failing such ~~approval~~ issuance, as specified in § 15.2-2306 of the Code of Virginia. In considering applications for proposed demolitions requiring certificates of appropriateness, ~~the review board shall give due~~ consideration to the circumstances and condition of the building, structure or landmark, or part thereof proposed for demolition or dismantling shall be given, and ~~shall determine~~ the feasibility of preservation of same shall be determined. If preservation is found to be physically or economically infeasible, a certificate of appropriateness shall be issued. If preservation is found to be feasible, however, ~~the review board shall take~~ appropriate actions shall be taken pursuant to this ordinance and the architectural guidelines to ensure preservation. An appeal of the determination ~~of the review board~~ that preservation is feasible may be submitted to the city council within thirty (30) days after the determination is made, and thereafter to the circuit court, as set out in section 12-712 below. Notwithstanding anything herein to the contrary, however, the owner of a building, structure or landmark in the HC district shall have the right to demolish same under the specific conditions set out in § 15.2-

2306 of the Code of Virginia, 1950, as amended. In addition, the city shall be exempt from the requirement for a certificate of appropriateness when facilitating the demolition or dismantling of a building, structure or landmark deemed to be unsafe under the Virginia Uniform Statewide Building Code or under Chapter 14 of the city Code.

- (i) ~~General~~ Administrative certificate of appropriateness for particular classes. ~~General~~ Administrative certificates of appropriateness may be issued under uniform criteria set out in the procedural architectural guidelines, upon findings that particular materials, designs, architectural features or styles and other characteristics are generally acceptable and appropriate within the HC District; or that the designation of a particular building, structure or landmark as non-contributing renders review by the review board unnecessary to preserving the historic or cultural character of the HC district. In such cases, the director of planning, or designee, shall be responsible for determining that the application meets the uniform criteria set out in the procedural guidelines and shall issue a ~~general~~ an administrative certificate accordingly.
- (j) *Issuance of temporary certificate of appropriateness under certain conditions.* Upon application by the owner of any non-income-producing, owner-occupied building or structure proposed for alteration, renovation or repair, the review board may issue a temporary certificate of appropriateness for a period of time not to

exceed one year from the date of issuance. No such temporary certificate shall be issued, however, unless the review board ~~finds that all criteria for economic hardship set out in the architectural guidelines have been fully satisfied~~ receives an opinion from the independent committee reviewing hardship applications that the applicant suffers from an economic hardship. The Board shall not review hardship applications submitted to the independent committee.

No temporary certificate of appropriateness shall be issued where in the opinion of the board the alleged economic hardship results from the following:

1. Willful or grossly negligent acts of the applicant; or
2. Failure to perform regular maintenance in conformance with the Virginia Uniform Statewide Building Code.

Denial of an application for a temporary certificate of appropriateness may be appealed as specified in section 12-712 below. Issuance of a temporary certificate of appropriateness shall in no event excuse compliance with building maintenance requirements set out in the Virginia Uniform Statewide Building Code or any other applicable laws or codes. A one-year extension may be granted, provided 1) the application for the extension is filed prior to the expiration of the original temporary certificate of appropriateness, and 2) the applicant demonstrates diligence in seeking to upgrade the alteration, renovation or repair to conform with applicable architectural guidelines and findings of the review board. In any event, the owner

of the property shall obtain a permanent certificate of appropriateness, as required by this subsection, prior to the expiration of the temporary certificate of appropriateness, or any extension thereof. Failure to obtain a permanent certificate of appropriateness before the expiration of the temporary certificate of appropriateness shall be deemed a violation of this ordinance.

- (k) The architectural review board shall impose a two hundred fifty dollar (\$250.00) fee for after-the-fact applications for certificates of appropriateness. After-the fact shall mean a request for a certificate of appropriateness for the construction, extension, enlargement, alteration, renovation or demolition of any building, structure, landmark, or any part thereof, occurring before ~~submittal~~ approval of an application for a certificate of appropriateness.
- (l) A certificate of appropriateness shall expire after six (6) months from the date that the certificate was approved. This time limit shall apply to all certificates of appropriateness. Upon the expiration of a certificate of appropriateness, any construction, extension, enlargement, alteration, renovation or demolition of any building, structure, landmark, or any part thereof shall be considered a violation of this ordinance unless and until another certificate of appropriateness is approved. The after-the-fact fee set out in subparagraph (k) shall not apply to expired certificates of appropriateness.

§ 12-722. Architectural guidelines.

Architectural guidelines entitled, "South Norfolk Historic and Cultural Preservation Overlay District Design and Procedural Guidelines, ~~2015~~ 2016 edition" shall apply in the areas described above.

AND BE IT FURTHER ORDAINED by the Council of the City of Chesapeake, Virginia that the City Council hereby adopts the amendments to the procedural and architectural guidelines of the Board of Historic and Architectural Review set forth in the attached South Norfolk Historic and Cultural Preservation Overlay District Design Guidelines.

ADOPTED by the Council of the City of Chesapeake, Virginia, this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Acting Clerk of the Council