

## **Article XII. Historic Overlay District (HOD)**

### **Sec. 70- 104 Purpose and Intent of Article.**

The purpose and objectives of this Article are:

(a.) To implement the town's Comprehensive Plan goal of protecting and preserving the old and historic Main Street area and other historic landmarks and areas from adverse changes, not only for their own value as community resources, but also because of their contribution to the town's unique character.

(b.) To encourage new construction in these areas that is compatible with and sensitive to the town's historic character.

(c.) To protect, enhance and perpetuate such buildings, structures, places and areas which represent elements of the town's cultural, social, economic, political and architectural history.

(d.) To stabilize and improve property values.

(e.) To protect and enhance the town's attraction to tourists and visitors and the support and stimulus to business and industry thereby provided.

(f.) To foster civic pride in the town's past.

(g.) To promote the use of the historic areas and resources for the education, pleasure and welfare of the people of the town.

### **Sec. 70- 105 Overlay Concept.**

(a.) The historic district shall be created as a special overlay to the existing underlying districts contained in this chapter, and is to be so designated by the symbol HOD on the official zoning map.

(b.) Any building or structure wholly or partially included within the historic overlay district shall fall within the concept of this Article.

(c.) The building regulations of the historic overlay district will conform to the existing zoning districts that the overlay district is superimposed upon, and nothing in this Article shall be construed to prevent the use of any land, building or structure in the historic overlay district permitted by the regulations prescribed in this chapter for the district in which the land, building or structure is located.

### **Sec. 70- 106 Definitions for the Purposes of this Article.**

(a.) Review Board. A board appointed by the majority vote of the town council who shall serve in an advisory capacity to the citizens of the town and the town council to accomplish the objectives of this Article.

(b.) Exterior architectural appearance of a structure. The structural character, general arrangement of the exterior, general composition, including kind and texture of the building material, and the type and character of all appurtenant elements subject to public view from a public street, public way or other public places.

(c.) Owner. The owner of any building, structure or property shall, for the purposes of this Article, be defined to include any person(s), firm, corporation, group, or organization having the legal or equitable right to locate, construct, reconstruct, alter, remodel, add to or demolish such building, structure or other improvements.

(d.) Structure. For the purposes of this Article, “structure” shall include walls, fences, steps or appurtenant elements thereof.

#### Sec. 70- 107 Historic Overlay District Created and Established.

In order to execute the purposes and objectives of this Article, there is hereby created in the town a historic overlay district (HOD). The boundaries of this district are delineated as an overlay upon the official zoning map and represented portions of the state historic district established by the Virginia Historic Landmarks Commission in 1972.

#### Sec. 70- 108 Review Board.

(a.) Establishment.

The members of the Review Board shall be appointed by the majority vote of the town council and shall serve without any compensation from the Town of New Market. The Review Board (hereafter referred to as “the Board”) shall be independent of any other appointed or elected body in the town. In accompanying the objectives of this Article, the Board shall serve in an advisory capacity only and no recommendations of this Board shall be binding upon any applicant. The Board may also review and make comments on buildings, structures, properties and projects not included in the historic overlay district when such review is requested by the applicant, the zoning administrator, the planning commission or the town council; however, no recommendations of this Board shall be binding.

(b.) Composition and Terms.

The Board shall consist of seven (7) voting members who shall be appointed for staggered three (3) year terms with the right of reappointment at the pleasure of the town council. The Board membership shall be composed of the following:

1. One (1) town staff member who, in addition to serving as a voting member of the Board, will serve as a liaison between the Board and the town government.
2. Three (3) residents of the town.
3. Three (3) owners of property in the historic overlay district who may, but need not, be residents of the town.

Members must attend a minimum of fifty (50) percent of all regular meetings to maintain their membership on the Board.

(c.) Qualifications for Membership.

Members shall possess a knowledge of the town's history and a dedication to the preservation of the town's historic resources. In addition, the town council shall make every attempt to appoint individuals with a specialized knowledge of historic architecture, planning, and/or other appropriate skills and talents whenever possible.

(d.) Officers.

The Board shall elect from its membership a chairman, vice-chairman and secretary. These officers shall be elected for three (3) year terms.

(e.) Rules of Procedure.

The Chairman shall conduct the meetings of the Board. In the absence of the chairman, the vice-chairman shall preside. The secretary shall keep minutes of the meetings and permanent records of all pertinent information presented at public meetings and all resolutions, transactions and determinations of the Board. The comments of the Board shall be determined by a majority of those members present and voting. A quorum of four (4) members is required before the Board may make any official recommendations. In matters covering procedures for meetings not enumerated by this Article, the Board shall establish its own rules provided that such rules are not contrary to town policy.

(f.) Authority to Request Information.

In accordance with the duties of the Board, it shall have the power and authority to request and receive any appropriate information, cooperation, assistance or studies from other town agencies.

(g.) Schedule of Meetings.

The Board shall meet within ten (10) working days of the receipt of an application for project review, or as soon thereafter as a quorum of the Board may be available. Meetings of the Board shall be publicly announced and shall be open to the public.

(h.) Responsibilities.

The Board shall be responsible for carrying out all duties specified in this Article and other duties as may be requested of it by the town council. In addition, it shall be the continuing duty of the Board to investigate and delineate buildings, structures, places and areas in the town having historic interest or value and to periodically report thereon to the town council for consideration as to whether such buildings, structures, places and areas should be added to the inventory of historic resources as contained in the town's Comprehensive Plan.

Sec. 70- 109 Application to the Review Board for Comment.

(a.) Board Review.

No designated building, structure or property within the historic overlay district shall be altered in any of the following ways until the proposed project is reviewed by the Board for:

1. Change in the exterior appearance of existing buildings or structures, excepting ordinary maintenance or repair of an existing architectural feature or a color change;
2. Demolition of any building or structure, in whole or in part;
3. Movement of any building or structure; and
4. Construction of new buildings and structures.

(b.) Applications.

1. In instances where a zoning permit is required by this chapter, the completed zoning permit application shall also serve as the application for Board review. A copy of the zoning permit application shall be forwarded to the Board immediately upon receipt by the zoning administrator, along with any additional information that may be required by the Board for project review. The zoning administrator shall not approve any zoning permit application in the historic overlay district until the Board has certified that the applicant for such a permit has appeared before it. A written copy of the Board's comments and recommendations shall be included with the certification of appearance.
2. In instances where a zoning permit is not required by this chapter, applications for project review by the Board shall be made on forms provided by the zoning administrator. Such applications shall be forwarded to the Board immediately upon receipt by the zoning administrator, along with any additional information that may be required by the Board for project review.
3. Additional information that may be required by the Board may include, but is not limited to: photographs of the property; site plan or sketch; description of proposed work and materials to be utilized; description of existing materials and construction; plans for landscaping, parking and other exterior features

and improvements which will be subject to public view from a public way or public place.

(c.) Board Actions of Applications.

The Board shall vote and announce its recommendations on any matter properly before it not later than seven (7) days after the conclusion of the public meeting on the matter, unless the time is extended by mutual agreement between the Board and the applicant. A written copy of such recommendations shall be provided to the applicant and, in the case of a zoning permit application, to the zoning administrator.

(d.) Board Authority to Seek Outside Advice.

The Board may seek technical advice from outside its membership on any application.

(e.) Special Provisions for Demolition Applications.

No building or structure subject to the provisions of this Article shall be demolished, in whole or in part, until its owner has applied for and received a project review from the Board. In addition to the provisions set forth above, the following requirements shall apply:

1. Demolition Delay Period.

The owner of a building or structure, the demolition of which is subject to the provisions of this Article, shall, as a matter of right, be entitled to demolish such building or structure provided that:

- a. He has applied to the Board for review;
- b. He has waited until the completion of a sixty (60) day demolition delay period, which shall begin upon receipt of his application by the zoning administrator and which may be extended by mutual agreement between the Board and the applicant; and
- c. He has complied with all local, state and federal laws and regulations.

The zoning administrator shall not approve any application for demolition in the historic overlay district until these conditions have been met by the applicant.

2. Demolition Criteria.

In reviewing demolition applications, the Board shall consider the following:

- a. The significance of the building or structure as evaluated by the Virginia Historic Landmark survey dated 1972, or similar surveys;

- b. The significance of the building or structure as evaluated in the town's Comprehensive Plan;
- c. The extent to which the building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest;
- d. The extent to which the loss of the building or structure would effect the historic and architectural character of surrounding properties and of the entire district;
- e. The extent to which the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
- f. The extent to which the building or structure is deemed to be a hazard to public health or safety, and repairs are impossible; and
- g. The ability of the owner to put his property to reasonable beneficial use.

### 3. Board Activities During the Demolition Delay Period.

During the demolition delay period set forth in subsection (e.) 1 of this Section, the Board may take such steps as it deems necessary to preserve the building or structure concerned in accordance with the purposes of this Article. Such steps may include, but are not limited to: consultation with civic groups, public agencies and interested citizens; recommendations for acquisition of property by public or private bodies or agencies; and exploration of the possibility of moving the building or structure.

### Sec. 70- 110 General Guidelines for Review.

In considering the appropriateness of any application, the Board shall consider the architectural significance and appearance and the historic significance of the building, structure, or property and the appropriateness of the proposed project in relation to the purposes and objectives of this Article, as set forth in Sec. 70- 104.

(a.) In considering applications to alter the exterior appearance of existing buildings and structures, no specific architectural standards shall be adopted; rather, each building or structure shall be reviewed based upon its own unique characteristics, age, style and significance to the community. The historical or architectural value and significance of the building or structure and its relationship to or congruity with the historic value of the land or place shall be considered, along with the appropriateness of the proposed alterations of the exterior feature(s) of such building or structure in relationship to or congruity with the exterior architectural features of other land, places, buildings or structures in the district or environs.

(b.) In reviewing applications for new construction, the Board shall take into account the extent to which the building or structure would be appropriate or incongruous to the historic district as well as its immediate surroundings. The Board shall consider major design elements,

such as site planning, proportion and scale, roof, windows and doorways, and all exterior architectural elements, including height, materials, trim and other details.

Sec. 70- 111 Maintenance and Repair.

Nothing in this Article shall be construed to prevent the routine maintenance or repair of an exterior architectural feature now or hereafter located in the historic overlay district; provided that such maintenance or repair involves no change in form or materials.

Sec. 70- 112 Public Safety or Hazard.

Nothing contained in this Article shall affect the right hereby granted to the zoning administrator to immediately issue a permit to demolish any building or structure within the town upon a finding by the health officer, the Town engineer, the County fire marshal, or the County building inspector's office that the immediate demolition of the building is required in the interests of public safety or to avert a public hazard. In such cases, the action of the zoning administrator shall be final, but each such issuance of a permit shall be accompanied by the written certification of the health officer, engineer, fire marshal or County building inspector, as the case may be, and shall be reported to the Board and to the town council.

Sec. 70- 113 Expansion of the Historic Overlay District.

The historic overlay district may be enlarged and new properties, buildings and structures may be included in its boundaries upon recommendation of the Board and adoption by the town council, after due notice, public hearing, and recommendation as set forth in this chapter and in the Code of Virginia, as amended. Requests for the inclusion of a property in this district may be initiated by application to the Board by the owner(s) of the property or their authorized agents, or by the application of any organization with a recognized interest in historic preservation.

Sec. 70- 114 Severability.

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