

Ordinance No. 2013-19

An Ordinance amending Article XIV-B, Tourist/Historic District (TH-1), of the Zoning Ordinance of the City of Hopewell amending XIV-B (M) to change the signatory approval for a Certificate of Appropriateness to the Zoning Administrator or his/her designee.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, that Article XIV-B-M, Issuance of a Certificate of Appropriateness, of the Zoning Ordinance of the City of Hopewell, hereby is, amended, and re-enacted as follows:

ARTICLE XIV-B TOURIST/HISTORIC DISTRICT (TH-1)

STATEMENT OF INTENT

The Tourist/Historic District is intended to create an attractive surrounding to tourist who are interested in the historic significance of the area and to reflect in a historic context the role of City Point as a commercial and residential town. Such a district would permit uses which otherwise may be deemed incompatible, but, due to the common ties to historic and architectural preservation and development, the uses coexist and work together to form a network of commercial and residential entities with a backdrop of historic significance. To that end, development is limited to low density residential and commercial and light manufacturing (cottage industry) of historic or tourist oriented merchandise or products.

For clarification and better understanding of this article, the following are offered: For the purpose of this article, "exterior architectural appearance: shall include architectural character; general arrangement of the exterior of a structure; general composition, including the kind, color, and texture of the building materials; and type and character of all windows, doors, light fixtures, signs and appurtenant elements subject to public view from a public street, public alley, or other public place."

A. USE REGULATIONS

In the TH-1 Tourist/Historic District, land may be used and buildings or structures may be erected, altered or used, only for the following (with off-street parking as required for the permitted use within the district):

1. Uses by right:
 - a. Single family dwellings.
 - b. Public scenic parks and gardens.

- c. Accessory uses as defined in this ordinance; however, no accessory use or structure shall be any closer than fifteen (15) feet to any property line.
 - d. Off-street parking as required in Article XVIII of this ordinance.
 - e. Signs reviewed by the Architectural Review Board (ARB) and deemed appropriate for historic intent in design, verbiage, and color, in accordance with Article XVIII (L) of this ordinance.
 - f. Municipal and public service facilities as well as public utilities, such as poles, line distribution transformers, meters, water, sewer and gas lines, booster and relay stations, transformer substations, transmission lines, to be located underground in all instances; cellular towers to be excluded.
 - g. Private utilities; towers for wireless transmission above the frequency of 20,000 hertz with a Conditional Use Permit by City Council.
 - h. Municipal owned recreational facilities which enhance the historic nature of the district.
 - i. Home occupation, as defined, to be located in the main building or an appropriate historic out-building.
2. Uses by Conditional Use Permit by City Council by Special Exception by the Board of Zoning Appeals, after review and recommendation by Architectural Review Board.
- a. Dwelling units in non-commercial areas of any otherwise permitted use, provided that each dwelling unit has a minimum of six hundred (600) gross square feet.
 - b. Banks and financial institutions.
 - c. Bed and Breakfast establishments.
 - d. Museums and art galleries.
 - e. Professional offices, as defined.
 - f. Restaurants, excluding drive-in and fast food establishments.
 - g. Retail stores and businesses which sell, as their primary product, items which are historic in nature or carry a historic connotation or have a significant interest in the tourist trade in the area, including but not limited to stores and boutiques specializing in ladies', children's, and men's wear, accessories, gifts, books, toiletries, jewelry, film, and selected sundries to be located only along Water Street or the Maplewood Apartment.
 - h. Cruise piers and the like with facilities for fueling but not including major repair or construction facilities.
 - i. Cottage industries which manufacture products for retail sale on premises that are oriented toward the tourist market in this area; to be located only along Water Street or the Maplewood Apartments.

B. AREA REGULATIONS

1. The minimum lot area for permitted uses in this district shall be twelve thousand (12,000) square feet.

C. LOT WIDTH

1. The minimum lot width for permitted uses in this district shall be eighty (80) feet at the setback line.

D. SETBACK REGULATIONS

1. Structures shall be located at least twenty five (25) feet from any street or highway, or any street or highway right-of-way line, except that if there are two abutting lots with structures on both of them, no new structure need be set back more than the average of the two (2) adjacent structures on either side. This shall be known as the "setback line".

E. YARD REGULATIONS

1. Side: The minimum width of each side yard for a permitted use in this district shall be ten (10) feet.
2. Rear: Each main structure shall have a rear yard of at least twenty five (25) feet.

F. HEIGHT REGULATIONS

1. Buildings may be erected up to thirty-five (35) feet or two and one half (2 1/2) stories from grade, except that:
 - a. Dwellings may be increased in height up to forty-five (45) feet or three (3) stories provided the required side yards are increased one (1) foot for each additional foot of height over thirty-five (35) feet.
 - b. Chimneys, water towers, wireless towers and other necessary mechanical appurtenances when permitted by this Article are exempt from the provisions of this section.

G. SPECIAL PROVISIONS FOR CORNER LOTS

1. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets, except that when one street has more than twice the traffic volume of the other, the side facing the street with the highest traffic volumes shall be deemed to be the front.
2. The side yard facing on the side street shall be twenty (20) feet or more for both the main and accessory building.

H. REQUIREMENT FOR PERMITTED USES

Before a building permit shall be issued or construction commenced on any permitted use other than a single-family dwelling in this district, or a permit issued for a new use other than a single-family dwelling, all requirements of Article XVI, Site Plan Requirements, shall be met. All proposals for residential, commercial, professional use, new construction, restoration or alterations shall be reviewed for appropriateness by the Architectural Review Board before a building permit or business license shall be issued or construction commenced on any permitted use in this district.

I. CERTIFICATION OF APPROPRIATENESS, GENERALLY

1. No building or structure within the Historic District shall be erected, reconstructed, altered or restored unless and until an application for a certificate of appropriateness shall have been approved by the Architectural Review Board.
2. No building or area which has been designated as a historical building or area by the Virginia Historic Landmarks Commissioner, or by the local, state or federal government shall be demolished or removed, in whole or in part, unless and until an application for a certificate of appropriateness shall have been approved by the Architectural Review Board.
3. Evidence of such required approval shall be a certificate of appropriateness issued by the Architectural Review Board.
4. Application for a certificate of appropriateness required by the Article shall be made to the zoning administrator.

GG. BOARD OF ARCHTITECTURAL REVIEW

1. An Architectural Review Board is hereby established and shall be known as the Architectural Review Board, hereafter referred to as the review board. The review board shall consist of seven (7) members who shall be appointed by City Council. One (1) shall be a-resident of the City Point Historic District, one (1) may be a registered architect, and the remainder shall be residents of the City of Hopewell with knowledge and demonstrated interest in the historic character of the city. These members shall serve a term of four (4) years One (1) member of the city administration shall be appointed as an advisory member of the review board and shall have no vote. (Ord. 2009-21)

2. The review board shall elect from its own membership a chairman and a vice chairman and secretary, who shall serve annual terms as such and may succeed themselves.
3. The chairman shall conduct the meetings of the review board. The secretary shall keep minutes of the meetings and a permanent record of all resolutions, motions, transactions, and determinations. All members of the review board, except for advisory members, shall be entitled to vote, and the decisions of the review board shall be determined by a majority vote. A quorum of four (4) voting members present is required before the review board may take any official action. The review board shall monthly after notification by the zoning administrator of an application for a certificate of appropriateness or permit requiring action by the review board. The meetings of the review board shall be open to the public, and a full and impartial hearing shall be granted. The review board shall vote and announce its decision on any matter properly before it no later than sixty (60) days after the conclusion of the hearing on the matter, unless the time is extended with the written consent of the applicant. The review board cases where an applicant appears within ninety (90) days with his application amended as provided in this Article. The review board shall not hear the subject matter of any application, which has been denied, for a period of one (1) year, except in cases where an applicant appears within ninety (90) days with the application amended as hereinafter provided. (Ord. 2011-14)
4. In the case of disapproval or denial of the erection, reconstruction, alteration, or restoration of a building or structure, the review board shall briefly state its reasons for such disapproval in writing, and it may make recommendations to the applicant with respect to suggested changes, the appropriateness of design, arrangement, texture, material, color, location and the like of a building or structure involved. In the case of disapproval accompanied by such recommendations, the applicant may amend and resubmit his application within ninety (90) days of such disapproval or denial if such application has been amended to comply with all of the recommendations of the review board.
5. In the case of disapproval of the demolition of a building which exists in the Historic District, the review shall state specifically its reason in writing.
6. The review board, when requested by application for a building permit in the Historic District, shall advise as to the changes and alterations necessary to bring the proposed building or structure in harmony with the general design of the building or structures located in the surrounding areas.
7. In matters governing the procedure for meetings not covered by this Article, the review board may establish its own rules and procedures; provided they are not contrary to the spirit of this Article.

J. NOTICE OF PUBLIC HEARING:

No application for a certificate of appropriateness to demolish a building which exists in the Historic District shall be considered by the review board until a public hearing

has been held thereon, following notice as required under Section 15.2-2204, Code of Virginia (1950), as amended.

K. CRITERIA FOR GRANTING A CERTIFICATE OF APPROPRIATENESS:

1. Before a certificate of appropriateness is issued for the erection, reconstruction, alteration or restoration of a building or structure in the Historic District, the review board shall consider:
 - a. 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, place and area in the district upon which it is proposed to be located, constructed, reconstructed, altered, or restored.
 - b. The appropriateness of the exterior architectural features of such building or structure to such land, place or area and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the district and environs.
2. Before a certificate of appropriateness is issued for the demolition of a building or structure which exists in the Historic District, the review board shall consider:
 - a. Is the building of such architectural or historic interest that its removal or disturbance would be to the detriment of the public interest?
 - b. Is the building of such interest or significance that it could be made into a national, state or local historic shrine?
 - c. Is the building of such old and unusual or uncommon design, texture and/or material that it could not be reproduced, or could be reproduced only with great difficulty and/or expense?
 - d. Would retention of the building help preserve the historic character of the district?
 - e. Would retention of the building help preserve a historic interest in a place or an area of the city?
 - f. Would retention of the building promote the general welfare by maintaining and increasing real estate values; generating business; creating new positions; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; and making the city a more attractive and desirable place in which to live?
3. The review board shall not consider detailed designs, interior arrangements, or features of a building or structure which are not subject to public view from a public street, public way, or other public place, except to the extent necessary to do so for the purpose of preventing the location, construction, reconstruction, alteration or repair of a building or structure that will be incongruous with the preservation

and protection of the historic aspects, settings and environment of the district and other buildings, structures, land, places of areas therein.

L. ISSUANCE OF CERTIFICATE OF APPROPRIATENESS:

Upon approval by the review board of any erection, reconstruction, alteration, restoration or demolition, a certificate of appropriateness, signed by the ~~secretary of the board~~ Zoning Administrator or his/her designee and bearing the date of issuance, but subject to the provisions of this Article shall be made available to the applicant.

M. EXPIRATION OF CERTIFICATE OF APPROPRIATENESS:

Any certificate of appropriateness issued pursuant to this Article shall expire of its own limitations twelve (12) months from the date of issuance if the work authorized by said certificate has not commenced; if any such work is suspended or abandoned for a period of twelve (12) months after being commenced. Any certificate of appropriateness issued pursuant to this Article shall also expire if the work authorized by said certificate has not been substantially completed within eighteen (18) months after issuance of the certificate. Any period or periods of time during which the right to use any such certificate is stayed pursuant to this Article, shall be excluded from the computation of the twelve (12) or eighteen (18) month period. Any certificate of appropriateness issued pursuant to this Article shall also expire if the work authorized by said certificate has not been substantially completed within eighteen (18) months after issuance of the certificate.

"Substantial Completion" is the point at which, as certified in writing by the contracting parties, a project is at the level of completion, in strict compliance with the contract, where:

- (1) Necessary final approval by the Hopewell Building Official has been given (if required);
- (2) The owner has received all required warranties, paperwork and/or documentation from the contractor, if applicable;
- (3) The owner may enjoy beneficial use or occupancy and may use, operate, and maintain the project in all respects, for its intended purpose; and
- (4) Any work remaining on the project is minor or "punch list" in nature.

Any period or periods of time during which the right to use any such certificate is stayed pursuant to this Article, shall be excluded from the computation of the twelve (12) or eighteen (18) month period.

N. APPEALS FROM ARCHITECTURAL REVIEW BOARD:

Any applicant aggrieved by a final decision of the Architectural Review Board shall have the right to appeal such decision to the Hopewell City Council, provided that such appeal is filed within a period of thirty (30) days after the review board has made its decision. The filing of the petition shall stay the review board's decision pending the

outcome of the appeal to the City Council. Any applicant aggrieved from any final decision of the City Council shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided such petition is filed within thirty (30) days after the final decision is rendered by the governing body. The filing of the said petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the governing body if such decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

O. ADDITIONAL OR CONCURRENT RIGHT TO DEMOLISH BUILDINGS IN THE HISTORIC HOPEWELL DISTRICT:

In addition to the right of appeal hereinabove set forth, 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:

1. He has applied to the board of review for such right.
2. That the owner has, for the period of time set forth in the time schedule hereinafter contained and 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 any person, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.
3. 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 hereinafter contained. Any appeal which may be taken to the court from the decision of the review board, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated regarding a stay of the decision appealed from, shall not affect the right of the owner to make a bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one (1) year after the final decision of the review board. The time schedule for offers to sell shall be as follows:

Property Valued At:	Minimum Offer to Sell Period:
Less Than \$25,000	3 months
\$25,000 – \$39,999	4 months
\$40,000 – \$54,999	5 months

\$55,000 – \$74,999	6 months
\$75,000 – \$89,999	7 months
\$90,000 – or more	12 months

P. BONA FIDE OFFER TO SELL:

1. Notice: Before making a bona fide offer to sell, provided for above in this Article, an owner shall first file a statement with the zoning administrator. The statement shall identify the property, state the offering price, the date of the offer of sale is to begin, and the name of the real estate agent, if any. No time period set forth in the schedule contained elsewhere in Section J. of the Article shall begin to run until the statement has been filed. Within five (5) days of receipt of a statement, copies of the statement shall be delivered to the members of city council, members of the planning commission, and the city manager.
2. Question as to price: The fact that an offer to sell a building or structure and the land pertaining thereto is at a price reasonably related to fair market value may be questioned; provided, it is filed with the zoning administrator, on or before fifteen (15) days after the offer for sale has begun, a petition in writing signed by at least twenty-five (25) persons owning real estate within the Historic Hopewell District. Upon receipt of such a petition, three (3) disinterested real estate appraisers, familiar with property values in the Historic Hopewell District, shall be appointed: one (1) by the review board, one (1) by the property owner and one (1) by the review board and the property owner. The cost of the appraisals shall be divided equally between the property owner and the city. Said appraisers shall forthwith make a appraisal of the building or structure and the land pertaining thereto in question and forthwith file a written report with the zoning administrator stating whether, in their opinion, the offer to sell the building or structure and the land pertaining thereto is at a price reasonably related to its fair market offer to sell the building or structure and the land pertaining thereto is at a price reasonably relate o its fair market value, the owner may continue as if no question had been raised. In the event the opinion is to the effect that the offer to sell the building or structure and the land pertaining thereto is not at a price reasonably related to its fair market value, the offer to sell shall be void an of no force and effect; and the owner, if he wishes to take advantage of the additional or concurrent right (to demolish said building or structure) provided for above in this Article, must file a notice provided for above and proceed with the demolition. Notwithstanding an adverse opinion by the appraisers, if any owner has entered into a binding bona fide contract as provided for above prior to the date the appraisers have file their report with the zoning administrator, the price shall be deemed reasonably related to fair market value.

Q. YARD VARIANCES:

Due to peculiar conditions of design and construction in historic neighborhoods where buildings and structures are often built close to the lot lines, it is in the public interest to retain a neighborhood's

historic appearance by granting variance to normal yard requirements. Where its deemed that such a variance will not adversely affect neighboring properties, the board of review may recommend to the board of zoning appeals that such variance to standard yard requirements be made.

R. PERMITTED USES:

Nothing in this Article shall be construed to prevent any use of land, building, or structure in the district permitted by the regulations prescribed in this ordinance for the district in which such land, buildings, or structure is otherwise located.

S. EXCLUSION:

1. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure described in this Article; nor shall anything in this Article be construed to prevent the construction, reconstruction, alteration, or demolition of any such element which the authorized municipal offers shall certify as required by public safety.

For the purpose of this ordinance; ordinary maintenance and repair is defined as any work which preserves and does not alter the present or current appearance of the exterior elements of the building or structure.

3. For the purpose of this section, examples of work not requiring approval of the Architectural Review Board are: repainting an existing window, door, porch, porch rail, etc.; re-roofing a building with the same type/color of shingles; replacing same color asbestos shingles on a house now containing asbestos shingles.
4. For the purpose of this section, examples of work requiring approval of the Architectural Review Board are: changing the color of a house or structure; any new addition to a house or structure; any new house or structure; installing new windows or architectural trim; installing siding material not identical in color or texture to what is presently on the house or structure.

T. DEFINING HISTORIC BUILDINGS AND AREAS:

It shall be the continuing duty of the review board to investigate and delineate buildings, structures, places, and areas in the city having historic interest or value which should be preserved and protected in the execution and attainment of the purposes and objectives declared in this Article, and to report thereon from time to time to the city council for consideration as to whether they or any of them shall be set apart for preservation and protection under the provisions of this Article.

U. HISTORIC MARKERS:

The review board shall design an appropriate marker, bearing the seal of the city and the words "historic building" and shall invite each owner of a building of historical significance to display the marker thereon.

V. PROTECTIVE MAINTENANCE:

1. All buildings and structures within the Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration or defects may, in the opinion of the review board, result in the irreparable deterioration of any exterior appurtenance or architectural

features or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself. The existence of any of the following conditions shall be sufficient to deem a structure an “endangered structure”:

- a. The deterioration or ineffective waterproofing of exterior walls or other vertical supports, including broken windows and doors;
 - b. The deterioration of roofs or horizontal members;
 - c. The deterioration of exterior chimneys;
 - d. The deterioration or crumbling of exterior plaster or mortar;
 - e. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions;
 - f. Defective lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
2. Upon a determination by the review board (with the technical advice of the Building Code Official) that a structure constitutes an endangered structure in accordance with section, the review board shall notify the zoning administrator of such determination, and the zoning administrator shall give notice of the determination and the requirements of this section to the property owner as set forth herein. Within thirty (30) days of receipt of this notice, the owner shall commence the necessary stabilization repairs and the owner shall complete the repairs within one hundred-twenty (120) days of such notice. The zoning administrator shall notify the owner by Certified Mail, Return Receipt Requested, of the endangered structure determination, and of the thirty (30) and one hundred-twenty (120) day time limitation set forth herein. Upon written notice to the zoning administrator within ten (10) days of receipt of the notice, an owner shall have a right to a hearing before the review board. Upon receipt of the owner’s notice, the zoning administrator shall promptly advise the owner of the time and location of the hearing and the right to present evidence and be represented by counsel. The hearing shall be informal and the decision of the review board shall be subject to the appeal in accordance with Section O of this Article. (Ord. 94-40)
 3. The one hundred-twenty (120) day time limit for completion of the repairs as set forth in the preceding paragraph may be extended for thirty (30) day intervals on the discretion of the review board for good cause shown.
 4. Enforcement of this section shall be in conformance with Article XXII (A) of this ordinance.
 5. Violations of this section shall be punishable as set forth in Article XX (B) of this ordinance.

This ordinance shall become effective upon the date of its adoption by the City Council on one and only reading dispensing with a second reading. In all other respects said Zoning Ordinance shall remain unchanged and be in full force and effect.

I, Cynthia Y. Ames, City Clerk of the City of Hopewell, Virginia, by Hopewell City Council at its meeting held on November 12, 2013.

Given under my hand and the Corporate Seal of the City of Hopewell, Virginia this 17th day of March 2014.

SEAL

City Clerk