

ARTICLE 35. PRESERVATION OF HISTORICAL AREAS WITHIN THE CITY

Section 1. Purpose and objectives.

The purpose and objectives of this article are to promote, within the historic areas hereby established, the educational, cultural, business, travel, industrial and other economic resources and the general welfare of the City of Petersburg, by preserving and protecting the old, historic or architecturally worthy buildings, structures, places and areas, as provided by Section 15.1-503.2 of the 1950 Code of Virginia, as amended.

Additional purposes of this article are to stabilize and improve property value in the historic areas, and to encourage new building and development that will be harmonious with the existing historic features, but will not necessarily be of the same architectural style. The purpose is to develop the historic areas, not in vacuum, but as a vital area in which each succeeding generation may build with the quality and sensitivity of past generations.

Section 2. Definitions.

For the purposes of this article, the following definitions shall apply:

Historic area. Historic area means an area containing buildings or places in which historic events occurred, or which have 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.

Structure. Anything man-made, including, but not limited to, main buildings, outbuildings, fences, walls, lamp posts, light fixtures, signs, signposts, billboards and paving.

Section 3. Historic areas.

There are hereby created several areas to be known as "historic areas." The historic areas are delineated on a map hereinafter called the "historic areas zoning map," which is hereby made a part of this article. Additions and amendments to this map shall be made in accordance Section 15.1-486, of the Code of Virginia, as amended.

The requirements placed on property located within historic areas by this article shall be co-extensive with, and in addition to, the requirements set out in articles 1 through 34 of the Petersburg zoning ordinance.

Section 3.1. Criteria for the expansion or establishment of additional historic zoning areas.

Expanded or additional historic zoning areas may be established to designate and protect properties that include areas, individual structures, and archaeological sites of historic, architectural, or cultural significance. In establishing such areas, it must be determined that the property, structure, or area meets at least one of the following criteria:

- (1) Possesses character, interest, or value as part of the development, heritage, or cultural characteristics of the community, state, or country;
- (2) Is a site of a significant local, state, or national event;
- (3) Is clearly identified with a person or persons who significantly contributed to the development of the community, state, or country;

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- (4) Embodies the distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
 - (5) Is identified as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, state, or country;
 - (6) Embodies elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
 - (7) Embodies design characteristics that make it structurally or architecturally significant;
 - (8) Occupies a unique location or possesses singular physical characteristics that make it an established or familiar visual feature;
 - (9) Provides for a landscape unit needed to control potentially adverse influences on lands closely related to and bearing upon the character of historic site or sites.

(Ord. No. 87-08, 1-20-1987)

Section 3.2. Procedure for the establishment or expansion of historic zoning areas.

Additions and expansions to historic zoning areas may be initiated by resolution of city council, or motion of the planning commission, or by petition of the owner or the owner's agent. Additionally, the architectural review board may recommend such initiation to the city council or planning commission. As a part of the city council's consideration of the expansion of existing areas or creation of additional areas, it may review reports prepared by the department of planning and the architectural review board along with the information relevant to the determination of the appropriateness of such proposed expansion and additions.

(Ord. No. 870-08, 1-20-1987)

Section 4. Architectural review board—Creation.

For the purposes of administering the provisions of this article, there is hereby created a board to be known as the "Architectural Review Board." This board shall be composed of seven (7) members who have a demonstrated interest, competence, or knowledge in historic preservation. At least one member shall be an architect and at least two members shall have professional training or equivalent experience in architecture, history, architectural history, archaeology or planning. The members shall be residents or business owners in the City of Petersburg, with the exception that the architect member does not have to reside or own a business in the City.

(Ord. No. 11-87, 9-6-2011)

Section 5. Same—Terms of members; quorums; and officers.

Of the members of the architectural review board first appointed, two (2) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, and three (3) for a term of three (3) years. Thereafter, members shall be appointed for a term of three (3) years, respectively. A vacancy occurring in the membership of the board for any cause shall be filled within sixty (60) days of its occurrence and, if occurring during the term, for the unexpired portion of the term. Four (4) members of the architectural review board present and voting shall constitute a quorum. At the first meeting of the architectural review board, the members, by majority vote, shall elect one of its members to serve as chairman. Thereafter, a chairman shall be elected annually at the first meeting to be held on or after July 15th in each year. Similarly, the members shall elect a vice-chairman and secretary. The secretary may or may not be a member of the board.

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(Ord. No. 87-08, 1-20-1987)

Section 6. Certificate of appropriateness; requirements before issuance of building permit, or commencement of work not requiring a permit.

No building permit under the provisions of the building code shall hereafter be issued for the erection, construction, alteration or restoration of the exterior of any building or structure, including signs, or part thereof, within a historic area, unless and until the applicant shall have secured a certificate of appropriateness from the architectural review board. No work, such as, but not limited to, painting which does not require a building permit, but would substantially alter the exterior appearance of any building or structure within a historic area, shall be commenced, unless and until the applicant shall have secured a certificate of appropriateness from the architectural review board.

These requirements shall not apply when the work proposed would not be subject to public view from a street or other public place.

Section 7. Elements of architectural compatibility to be considered in passing upon certificates of appropriateness.

The architectural review board shall consider the following elements of architectural compatibility in consideration of issuance of a certificate of appropriateness to an applicant:

- (1) General design;
- (2) Character and appropriateness of design;
- (3) Form;
- (4) Proportion and scale;
- (5) Mass;
- (6) Configuration;
- (7) Arrangement;
- (8) Texture;
- (9) Material;
- (10) Color;
- (11) The relationship of such elements to similar features of structures in the immediate surroundings;
- (12) Prevention of developments which are not in harmony with prevailing characteristics, or which are obviously incongruous with the character of the historic area.

Section 8. Temporary certificates of appropriateness.

The architectural review board may, at its discretion, issue a temporary certificate of appropriateness to an applicant who does not meet the necessary requirements of architectural compatibility, but only if the applicant meets all of the following requirements:

- (1) Strict application of this article would produce undue hardship;
- (2) The proposed work would not be of such a permanent nature as to preclude future activity which would meet compatibility compliance;

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- (3) No such temporary certificate shall be issued to allow the proposed work to exist for a period longer than five (5) years.

Section 9. Applications for certificates.

An applicant for a certificate of appropriateness regarding proposed erection, construction, alteration or restoration of any structure located within a historic area shall submit, to the architectural review board, all relevant information concerning the proposal and reasonably requested by the architectural review board. Such information may include, but need not be limited to, samples of materials and colors, photographs, prospective views, exterior elevations, plot plans and outline specifications.

Section 10. Board actions on applications.

Applications for certificates of appropriateness shall be filed in writing with the secretary of the architectural review board. Within thirty (30) days of receipt of an application by the secretary of the board, the board shall meet to review the application in accordance with the applicable sections of this article.

Within thirty (30) days after the date that the board first reviews the application, the board shall decide whether or not to issue a certificate of appropriateness.

In any event, if no decision has been made by the architectural review board within sixty (60) days after the secretary has received the application, and no mutual agreement between the applicant and the architectural review board has been made for the extension of this time period, the secretary of the board shall submit the application to the clerk of council and council shall review the application, in the same manner as if a decision of the architectural review board had been appealed.

Section 11. Notification of issuance of certificate of appropriateness.

If the architectural review board approves an application, it shall record its reasons therefor in its minutes, issue a certificate of appropriateness signed by the secretary of the board, attach the certificate to the application, and transfer the application, with the attached certificate, to the zoning administrator and the building inspector. Upon receipt thereof, if applicable, the building inspector shall issue a building permit in the usual manner.

If the architectural review board disapproves an application, it shall state its reasons for doing so and shall transmit a record of the reasons to the applicant, the zoning administrator, and the building inspector. At any time after disapproval, the applicant may resubmit an application, with or without amendments, which shall be processed in the same manner as set forth in this article.

Section 12. Zoning Administrator and building inspector to enforce provisions of this article.

The zoning administrator and the building inspector shall enforce the provisions of this article.

Section 13. Appeals from the board to city council.

Whenever the architectural review board shall, in a final decision, deny an applicant a certificate of appropriateness, the applicant shall have the right to appeal to and be heard before city council, provided he files with the clerk of council, on or before thirty (30) days after the decision of the board, a notice, in writing, of his intention to appeal. Upon receipt of such notice, the clerk of council shall forthwith notify the city manager, who shall schedule a public hearing before city council at a time not to exceed thirty (30) days after receipt by the clerk of such notice.

Opponents to the granting of certificates of appropriateness by the architectural review board, shall have the right to appeal to and be heard before the city council, provided there is filed with the clerk of city council, on or before thirty (30) days after the decision of the board, a written petition indicating the intention to appeal. The same provisions for setting a hearing date as aforesaid shall apply.

On any such appeal, the final decision of the architectural review board shall be stayed, pending the outcome of the appeal before council, except that the filing of the appeal shall not stay the decision of the board if such decision denies the right to raze, move or demolish any historic landmarks, building or structure. The council shall conduct a full and impartial public hearing on the matter before rendering a decision.

The same standards and considerations aforesaid in this article shall be applied by the council as are established for the architectural review board. By majority of those members present and voting, the council may affirm, reverse or modify the decision of the board, in whole or in part. The decision, subject to section 14 of this article, shall be final. If approved, a certificate of appropriateness shall be signed and issued by the clerk of council, and processed in the same manner as if it had been approved by the architectural review board.

Section 14. Appeal to the circuit court to review decision by the city council.

Any person or persons jointly or severally aggrieved by any decision of city council as related to this article, or any taxpayer or any officer, department, board or bureau of the city, may present to the circuit court a petition specifying grounds on which aggrieved, within thirty (30) days after the decision is rendered by city council.

Upon the presentation of such petition, the court shall allow a writ or certiorari to review the decision of the city council, and shall prescribe therein the time within which a return thereto must be made.

The filing of said petition shall stay the decision of the city council, pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of city council, if such decision denies the right to raze, move or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the city council, in whole or in part, if it finds upon review, that the decision of city council is contrary to law, or that its decision is arbitrary and constitutes an abuse of discretion; or it may affirm the decision of city council.

Section 15. Demolition, razing or moving of buildings and structures within a historic area.

The demolition, razing or moving of any building or structure located within a historic area shall be permitted if, and only if, the owner has secured a certificate of appropriateness. The same procedure, relevant guidelines, and appeals process, shall apply for issuance of certificates of appropriateness for demolition, razing or moving, as apply for the erection, construction, alteration, or restoration of buildings or structures, as set out in this article.

Other factors that may be considered by the architectural review board, when deciding upon applications for demolition, razing or moving of a building or a structure, are its historic significance, architectural value, the structure's contribution to the overall facade or appearance of the historic area, or the physical ability to restore the building or structure, considering its present physical condition.

The owner of a building or structure located within a historic area who has been denied, by the architectural review board, and the city council, on appeal, a certificate of appropriateness, to demolish, raze or move a building or structure, as a matter of right shall be entitled to raze, move or demolish such building provided that:

- (1) The owner has, for the period of time set forth in the time schedule hereinafter contained, and at a price reasonable related to its fair market value, made a bona fide offer to sell such landmark, building or structure, and the land pertaining thereto, to the City of Petersburg, 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 or structure and the land pertaining thereto; and

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- (2) 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 city council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell, referred to above. No offer to sell shall be made more than one year after the final decision by the city council, but hereafter the owner may renew his request to city council to approve the razing or demolition of the building or structure. The time schedule for offers to sell shall be as follows:

Three (3) months when the offering price is less than twenty-five thousand dollars (\$25,000.00);

Four (4) months when the offering price is twenty-five thousand dollars (\$25,000.00) or more, but less than forty thousand dollars (\$40,000.00);

Five (5) months when the offering price is forty thousand dollars (\$40,000.00) or more, but less than fifty-five thousand dollars (\$55,000.00);

Six (6) months when the offering price is fifty-five thousand dollars (\$55,000.00) or more, but less than seventy-five thousand dollars (\$75,000.00);

Seven (7) months when the offering price is seventy-five thousand dollars (\$75,000.00) or more, but less than ninety thousand dollars (\$90,000.00); and

Twelve (12) months when the offering price is ninety thousand dollars (\$90,000.00) or more.

Section 16. Protective maintenance required.

The owner of any building or structure, which is located within a historic area, shall keep such structure properly maintained and repaired. The degree of maintenance and repair hereby required, is that degree sufficient to prevent all permanent damage to the structural components and /or the exterior by any foreseeable force, including but not limited to weather, fire and termites. The board is hereby empowered to require such owner to discharge this duty. Acts which the board may require such owner to perform, pursuant to this paragraph, shall include, but shall not be limited to, the following: Exterior painting; replacing broken window panes; securing abandoned structures by boarding up, or otherwise; maintaining a sound roof, eaves and roof gutters; termite treatment, if the board suspects that the structure contains termites. The board is hereby empowered to use whatever legal processes are needed to assure that this duty is discharged fully and properly. The building inspector and zoning administrator, to the extent that their powers permit, shall honor requests made by the board for the purpose of enforcing this paragraph.

Section 17. Enforcement and penalty.

It shall be unlawful, and punishable to the fullest extent permitted by the Code of Virginia, for any person, whether on contract or otherwise, to cause or participate in the construction, demolition, moving, exterior alteration, exterior renovation, or exterior maintenance of any structure in violation of this article. For purposes of this paragraph, each day that such violation continues shall constitute a separate violation of this article.

In addition, any violator of this article may be enjoined by any court having jurisdiction, and, as a part of such equitable relief, any person found to be in violation of this article may be required, at his own expense, to remove all nonconforming work and material from the structure, and/or to restore the structure to its appearance immediately prior to the time that such unauthorized work began.

Section 18. City codes and ordinances.

Nothing in this article shall be construed to prevent the application of the building code or other laws and ordinances applicable thereto.

Section 19. Validity.

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance [article] shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance [article] as whole, or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 20. Effective date.

This article shall take effect and be in force from and after its adoption, the public welfare requiring it.