

**City of Charlottesville Zoning Ordinance****Article II. Overlay Districts****Division 2. - Historical Preservation and Architectural Design Control Overlay Districts****Sec. 34-271. - Purposes.**

The City of Charlottesville seeks, through the establishment of its several historic districts and through the protection of individually significant properties, to protect community health and safety, to promote the education, prosperity and general welfare of the public through the identification, preservation and enhancement of buildings, structures, landscapes, settings, neighborhoods, places and features with special historical, cultural and architectural significance. To achieve these general purposes, the City of Charlottesville seeks to pursue the following specific purposes:

- 1) To preserve and protect buildings, structures and properties which serve as important visible reminders of the historic, cultural, and architectural or archaeological heritage of this city, the Commonwealth of Virginia, or this nation;
- 2) To assure that, within the city's historic districts, new structures, additions, landscaping and related elements will be in harmony with their setting and environs;
- 3) To promote local historic preservation efforts through the identification and protection of historic resources throughout the city;
- 4) To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of older structures in a safe and healthful manner, and by encouraging desirable uses and forms of development that will lead to the continuance, conservation and improvement of the city's historic, cultural and architectural resources and institutions within their settings;
- 5) To promote tourism and enhance business and industry, and to promote an enhanced quality of life within the city, through protection of historic, cultural and archaeological resources.

(9-15-03(3))

**Sec. 34-272. - Major design control districts.**

The following areas have been determined by city council to be of unique architectural and/or historic value, and are hereby designated as major architectural design control districts, the limits of which are shown on the city's zoning map:

- A. District A (the **Downtown** Architectural Design Control District, "DADC"): All buildings within this overlay district are deemed by city council to be "contributing structures," except that, with respect to certain properties added to this district on or after January 17, 2006, city council has designated only certain buildings as "contributing structures," as specifically identified on a map included within the design guidelines for this district, a copy of which is available within the department of neighborhood development services."
- B. District B (the **North Downtown** Architectural Design Control District, ("ADC"): All buildings within this overlay district are deemed by city council to be "contributing structures," except that, with respect to certain properties added to this district on or after January 17, 2006, city council has designated only certain buildings as "contributing structures," as specifically identified on a map included within the design guidelines for this district, a copy of which is available within the department of neighborhood development services.
- C. District C (the **Ridge Street** Architectural Design Control District): All buildings within this overlay district are deemed by city council to be "contributing structures."
- D. District D (the **West Main Street** Architectural Design Control District): City Council has designated only certain buildings within this overlay district as "contributing structures." Those contributing structures are identified on a map included within the Design Guidelines, a copy of which is available within the department of neighborhood development services.

- E. District E (the **Wertland Street** Architectural Design Control District): All buildings within this overlay district are deemed to be "contributing structures."
- F. District F (**the Corner** Architectural Design Control District): City council has designated only certain buildings within this overlay district as contributing structures. Those contributing structures are identified on a map included within the design guidelines, a copy of which is available within the department of neighborhood development services.
- G. District G (the **Oakhurst-Gildersleeve Neighborhood** Architectural Design Control District): City council has designated only certain buildings within this overlay district as contributing structures. Those contributing structures are identified on a map included within the design guidelines, a copy of which is available within the department of neighborhood development services.
- H. District H (**Rugby Road—University Circle—Venable Neighborhood** Architectural Design Control District): City council has designated only certain buildings within this overlay district as contributing structures. Those contributing structures are identified on a map included within the design guidelines, a copy of which is available within the department of neighborhood development services. [Staff note 10/2022: This is different from the *Rugby Road Historic Conservation District*.] (9-15-03(3); 11-17-03, § 1; 2-7-05, § 1; 1-17-06(4), § 1; 1-17-06(5), § 1)

### Sec. 34-273. - Individually protected properties.

- a) The City of Charlottesville seeks, through the creation of a protected property list, to protect community health and safety and to promote the education, prosperity and general welfare of the public, through identification, preservation, protection and enhancement of certain buildings, structures, and landmarks, together with their landscapes and settings, which are of special historic, cultural, or architectural significance, and which are located outside the city's major design control districts. To achieve these general purposes, the city seeks to pursue the following goals and objectives:
1. To enrich the quality of life for city residents, by protecting familiar landmarks and other treasured elements of the city;
  2. To protect historic and cultural resources, and thereby to promote tourism and to enhance business and industry;
  3. To maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of historically and culturally significant structures;
  4. To promote local historic preservation efforts through identification and protection of historic resources throughout the city;
  5. To encourage nomination of historic properties to the National Register of Historic Places and the Virginia Landmarks Register; and
  6. To assure that additions, alterations, restorations, landscaping and related elements be in harmony with a building or structure and its setting.
- b) Following is a list of landmarks, buildings and structures outside the city's major design control districts, which are deemed by city council to be of special historic, cultural, or architectural value (each, individually, a "Protected Property"). Each parcel containing a protected property is hereby designated a minor design control district.

1.	759	Belmont Avenue	Tax Map 58	Parcel 172
2.	123	Bollingwood Road	Tax Map 7	Parcel 22
3.	1102	Carlton Avenue	Tax Map 56	Parcel 86, Lots 1, 2, 3
4.	133—155	Carlton Road	Tax Map 57	Parcel 157 (portion)
5.	907	Cottage Lane	Tax Map 2	Parcel 54.3

6.	908	Cottage Lane	Tax Map 2	Parcel 25
7.	909	Cottage Lane	Tax Map 2	Parcel 54.4
8.	513	Dice Street	Tax Map 29	Parcel 63.1
9.	402	Dice Street	Tax Map 29	Parcel 124
10.	406	Dice Street	Tax Map 29	Parcel 122
11.	410	Dice Street	Tax Map 29	Parcel 119
12.	412	Dice Street	Tax Map 29	Parcel 118
13.	210	Eighth Street, NE	Tax Map 53	Parcel 173.23
14.	901	Emmet Street	Tax Map 1	Parcel 1 (portion)
15.	200	Fifteenth Street, N.W.	Tax Map 9	Parcel 71
16.	205	Fifth Street, S.W.	Tax Map 29	Parcel 69
17.	217	Fifth Street, S.W.	Tax Map 29	Parcel 66
18.	301	Fifth Street, S.W.	Tax Map 29	Parcel 104
19.	418	Fifth Street, S.W.	Tax Map 29	Parcel 161
20.	201	Fourteenth Street, N.W.	Tax Map 9	Parcel 73
21.	233	Fourth Street, N.W.	Tax Map 32	Parcel 89
22.	223	Fourth Street, SW	Tax Map 29	Parcel <a href="#">42</a>
23.	1602	Gordon Avenue	Tax Map 9	Parcel 13
24.	946	Grady Avenue	Tax Map 31	Parcel 60 (portion)
25.	1022	Grove Street (formerly 1212)	Tax Map 23	Parcel 38
26.	700	Harris Street	Tax Map 35	Parcel 132
27.	204	Hartman's Mill Road	Tax Map 26	Parcel 38
28.	208	Hartman's Mill Road	Tax Map 36	Parcel 36
29.	801	High Street, East	Tax Map 53	Parcel 194
30.	1404	Jefferson Park Avenue	Tax Map 11	Parcel 112
31.	2115	Jefferson Park Avenue	Tax Map 17	Parcel 88
32.	1201	Jefferson Street, East	Tax Map 54	Parcel 212
33.	800	Jefferson Street, East	Tax Map 53	Parcel 173.22
34.	901	Jefferson Street, East	Tax Map 53	Parcel 261
<a href="#">35</a>	1615	Keith Valley Road	Tax Map 41A	Parcel <a href="#">46</a>
<a href="#">36</a>	114	Lankford Avenue	Tax Map 26	Parcel 10
<a href="#">37</a>	214	Lankford Avenue	Tax Map 26	Parcel 1
<a href="#">38</a>	459	Locust Avenue	Tax Map 53	Parcel 234 (portion)
<a href="#">39</a>	810	Locust Avenue	Tax Map 51	Parcel 74
<a href="#">40</a>	700	Lyons Avenue	Tax Map 52	Parcel 26
<a href="#">41</a>	610	Lyons Court	Tax Map 52	Parcel 78
<a href="#">42</a>	706	Lyons Court Lane	Tax Map 52	Parcel 77
<a href="#">43</a>	1118	Market Street, East	Tax Map 54	Parcel 150
<a href="#">44</a>	1512	Market Street, East	Tax Map 56	Parcel 40.4
<a href="#">45</a>	1819	Market Street East	Tax Map 55A	Parcel 146

<u>46</u>	1901	Market Street, East	Tax Map 55A	Parcel 149
<u>47</u>	224	Ninth Street, SW	Tax Map 30	Parcel 65
<u>48</u>	501	Ninth Street, SW	Tax Map 30	Parcel 169
<u>49</u>	1105	Park Street	Tax Map 47	Parcel 7
<u>50</u>	1108	Park Street	Tax Map 47	Parcel <u>49</u>
<u>51</u>	1112	Park Street	Tax Map 47	Parcel 50
52.	608	Preston Avenue	Tax Map 32	Parcel 14
53.	722	Preston Avenue	Tax Map 31	Parcel 38 (portion)
54.	1010	Preston Avenue	Tax Map 4	Parcel 41
55.	605	Preston Place	Tax Map 5	Parcel 111
56.	611	Preston Place	Tax Map 5	Parcel 112
57.	620	Prospect Avenue (formerly 620 7½ Street)	Tax Map 25	Parcel 2
58.	752	Ridge Street	Tax Map 25	Parcel 79
59.	212	Rosser Avenue	Tax Map 3	Parcel 107
60.	818	Ridge Street	Tax Map 25	Parcel 102
61.	1328	Riverdale Drive [Staff note 10/2022: House razed 2014]	Tax Map 50	Parcel 5
62.	202	Riverside Avenue	Tax Map 55A	Parcel 148
63.	1204	Rugby Road (now 1719 Mason Lane)	Tax Map 38	Parcel 134
64.	1314	Rugby Road	Tax Map 38	Parcel 92
65.	204	Seventh Street, SW	Tax Map 29	Parcel 73
66.	208	Seventh Street, SW	Tax Map 29	Parcel 74
67.	201	Sixth Street, NW	Tax Map 32	Parcel 124
68.	327	Sixth Street, SW	Tax Map 29	Parcel 188
69.	209—211	Sprigg Lane	Tax Map 8	Parcel 28
<u>69.1.</u>	<u>104</u>	<u>Stadium Road</u>	<u>Tax Map 16</u>	<u>Parcel 2</u>
70.	214	Stribling Avenue	Tax Map 18A	Parcel 33
71.	134	Tenth Street, N.W.	Tax Map 31	Parcel 56
71.1	414/415-B	Tenth [10 <sup>th</sup> ] Street, NW (added 8/15/2022)	Tax Map 4	Parcel 46
72.	309	Twelfth Street, NE	Tax Map 54	Parcel 211
73.	1	University Court	Tax Map 9	Parcel <u>44</u>
74.	603	Watson Avenue	Tax Map 47	Parcel 43
75.	212	Wine Street	Tax Map 33	Parcel 32

(6-6-05(2); 12-18-06(2), § 2; 9-15-08(3); 11-3-08(3), § 2; 4-18-11(1), § 2; 9-19-11(1), § 2)

**Sec. 34-274. - Additions to and deletions from districts or protected property list.**

- a) City council may, by ordinance, from time to time, designate additional properties and areas for inclusion within a major design control district; remove properties from a major design control district; designate individual buildings, structures or landmarks as protected properties; or remove individual buildings, structure or landmarks from the city's list of protected properties. Any such action shall be undertaken following the rules and procedures applicable to the adoption of amendments to the city's zoning ordinance and zoning map.

- b) Prior to the adoption of any such ordinance, the city council shall consider the recommendations of the planning commission and the board of architectural review ("BAR") as to the proposed addition, removal or designation. The commission and BAR shall address the following criteria in making their recommendations:
- (1) The historic, architectural or cultural significance, if any, of a building, structure or site and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register;
  - (2) The association of the building, structure or site with an historic person or event or with a renowned architect or master craftsman;
  - (3) The overall aesthetic quality of the building, structure or site and whether it is or would be an integral part of an existing design control district;
  - (4) The age and condition of a building or structure;
  - (5) Whether a building or structure is of old or distinctive design, texture and material;
  - (6) The degree to which the distinguishing character, qualities or materials of a building, structure or site have been retained;
  - (7) Whether a building or structure, or any of its features, represents an infrequent or the first or last remaining example of a particular detail or type of architecture in the city;
  - (8) Whether a building or structure is part of a geographically definable area within which there exists a significant concentration or continuity of buildings or structures that are linked by past events or, aesthetically, by plan or physical development, or within which there exist a number of buildings or structures separated geographically but linked by association or history.

(9-15-03(3))

**Sec. 34-275. - Certificates of appropriateness; construction and alterations.**

- a) No building or structure within any major design control district, and no protected property, shall be constructed, reconstructed, altered or restored unless and until an application for a certificate of appropriateness is approved. No vendor stand shall be located or operated within a major architectural design control district unless and until a certificate of appropriateness is issued pursuant to [section 28-119](#) of the City Code. All certificates of appropriateness shall be conditioned upon compliance with the requirements set forth within [Chapter 28](#), Article IV of the City Code (Street Vendors, Generally).
- b) Review of the proposed construction, reconstruction, alteration or restoration of a building or structure shall be limited to: (i) exterior architectural features, including signs, and (ii) the factors specified in [section 34-276](#). The BAR or council on appeal may make such requirements for, and conditions of approval as are necessary or desirable to prevent any construction, reconstruction, alteration or restoration which would be architecturally incompatible with the character of the major design control district or protected property, as may be applicable. Prior to attaching conditions to an approval, due consideration shall be given to the cost of compliance with the proposed conditions.
- c) The following shall be exempt from the requirement of a certificate of appropriateness:
- 1) Interior features, details, alterations and improvements;
  - 2) Ordinary maintenance or repair of exterior elements or features; and
  - 3) Construction, reconstruction, alteration, repair or other improvements to a building or structure made pursuant to an order of correction issued by the city's building code official, upon a determination by the city's building code official that a building or structure is an "unsafe

structure," as that term is defined by the state's building code and regulations. In the event any such order or determination is issued with respect to a building or structure subject to BAR review pursuant to this division, the director of neighborhood development services shall notify the BAR of any alterations or repairs ordered by the building code official.

(9-15-03(3); 12-1-03(2))

**Sec. 34-276. - Standards for review of construction and alterations.**

The following features and factors shall be considered in determining the appropriateness of proposed construction, reconstruction, alteration or restoration of buildings or structures pursuant to [section 34-275](#) above:

- 1) Whether the material, texture, color, height, scale, mass and placement of the proposed addition, modification or construction are visually and architecturally compatible with the site and the applicable design control district;
- 2) The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs and signs;
- 3) The Secretary of the Interior Standards for Rehabilitation set forth within the Code of Federal Regulations (36 C.F.R. §67.7(b)), as may be relevant;
- 4) The effect of the proposed change on the historic district neighborhood;
- 5) The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls and walks;
- 6) Whether the proposed method of construction, renovation or restoration could have an adverse impact on the structure or site, or adjacent buildings or structures;
- 7) When reviewing any proposed sign as part of an application under consideration, the standards set forth within Article IX, sections [34-1020](#), et seq. shall be applied; and
- 8) Any applicable provisions of the city's design guidelines (see [section 34-288\(6\)](#)).

(9-15-03(3))

**Sec. 34-277. - Certificates of appropriateness; demolitions and removals.**

- a) No contributing structure located within a major design control district, and no protected property, shall be moved, removed, encapsulated or demolished (in whole or in part) unless and until an application for a certificate of appropriateness has been approved by the BAR, or the city council on appeal, except that:
  - 1) The moving, removing, encapsulating or demolition, in whole or in part, of any contributing structure or protected property shall be allowed pursuant to an order of the city's building code official, without the permission of the BAR or city council on appeal, upon the determination of the building code official that the building or structure is in such a dangerous, hazardous or unsafe condition that it could reasonably be expected to cause death or serious injury before review under the provisions of this article. Upon such a determination, the building code official shall deliver a copy of his order to the director of neighborhood development services and to the chairman of the BAR; and
  - 2) Where the moving, removing, encapsulation or demolition of any contributing structure or protected property will disturb or affect fewer than twenty-five (25) square feet, total, of exterior wall, roof or other exterior surfaces, such activity shall be deemed an alteration subject to the review process set forth within [section 34-275](#), above.
- b) Review of the proposed moving, removing, encapsulation or demolition of any contributing structure or protected property shall be limited to the factors specified in [section 34-278](#), below.

- c) The BAR, or council on appeal, may make such requirements for, and conditions of approval as are necessary or desirable to protect the safety of adjacent buildings, structures, or properties, and of any persons present thereon; and, in the case of a partial removal, encapsulation or demolition:
    - 1) To protect the structural integrity of the portion(s) of a building or structure which are to remain following the activity that is the subject of a permit, or
    - 2) To protect historic or architecturally significant features on the portion(s) of a building or structure which are to remain following the activity that is the subject of a permit.
  - d) Failure to obtain the permit required by this section shall subject the property owner to the civil penalty described within Article I, [section 34-86\(c\)](#) (i.e., twice the fair market value of the building or structure).
- (9-15-03(3))

**Sec. 34-278. - Standards for considering demolitions.**

The following factors shall be considered in determining whether or not to permit the moving, removing, encapsulation or demolition, in whole or in part, of a contributing structure or protected property:

- a) The historic, architectural or cultural significance, if any, of the specific structure or property, including, without limitation:
    - 1. The age of the structure or property;
    - 2. Whether it has been designated a National Historic Landmark, listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
    - 3. Whether, and to what extent, the building or structure is associated with an historic person, architect or master craftsman, or with an historic event;
    - 4. Whether the building or structure, or any of its features, represent an infrequent or the first or last remaining example within the city of a particular architectural style or feature;
    - 5. Whether the building or structure is of such old or distinctive design, texture or material that it could not be reproduced, or could be reproduced only with great difficulty; and
    - 6. The degree to which distinguishing characteristics, qualities, features or materials remain;
  - b) Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within an existing major design control district, or is one (1) of a group of properties within such a district whose concentration or continuity possesses greater significance than many of its component buildings and structures.
  - c) The overall condition and structural integrity of the building or structure, as indicated by studies prepared by a qualified professional engineer and provided by the applicant or other information provided to the board;
  - d) Whether, and to what extent, the applicant proposes means, methods or plans for moving, removing or demolishing the structure or property that preserves portions, features or materials that are significant to the property's historic, architectural or cultural value; and
  - e) (e)Any applicable provisions of the city's design guidelines (see [section 34-288\(6\)](#)).
- (9-15-03(3))

**Sec. 34-279. - Sign standards.**

Signs within any architectural design control district shall comply with the standards set forth in Article IX, [section 34-1020](#), et seq.

(9-15-03(3))



**Sec. 34-280. - Validity of certificates of appropriateness.**

- a) The validity period of a certificate of appropriateness shall be as follows:
1. A certificate of appropriateness associated with a project for which a valid site plan is not required shall expire and become void eighteen (18) months from the date of approval by the board of architectural review, unless a building permit to construct the authorized improvements or activities has been issued; or, if no building permit is required, unless construction of the authorized improvements or activities has substantially commenced.
  2. The validity period of a certificate of appropriateness associated with a project for which a valid site plan is required shall be consistent with that of the approved preliminary and final site plan pursuant to sections 34-822 and 34-825, except a certificate of appropriateness shall expire and become void eighteen (18) months from the date of approval by the board of architectural review if preliminary site plan approval has not been granted, or upon revocation of an approved preliminary site plan or expiration of an approved final site plan.
  3. Prior to the expiration of a certificate of appropriateness, upon written request and for reasonable cause, the director of neighborhood development services or the BAR may extend the validity of any such certificate for a period not to exceed one (1) year.
- b) The issuance of a certificate of appropriateness shall not, in and of itself, authorize any construction, reconstruction, alteration, repair, demolition, or other improvements or activities requiring a building permit. Where a building permit is required, no activity authorized by a certificate of appropriateness shall be lawful unless conducted in accordance with the required building permit and all applicable building code requirements.

(9-15-03(3); 6-6-05(2); 7-18-11)

**Sec. 34-281. - Maintenance and repair required.**

- a) Neither the owner of nor the person in charge of a contributing structure or protected property shall allow such property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce a detrimental effect upon the character of a major architectural design district or the life and character of a contributing structure or protected property. Examples of the type of disrepair prohibited include, but are not limited to:
1. The deterioration of exterior walls or other vertical supports;
  2. The deterioration of roofs or other horizontal members;
  3. The deterioration of exterior chimneys;
  4. The deterioration or crumbling of exterior plasters or mortar;
  5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
  6. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- b) The zoning administrator shall give notice by certified or registered mail of specific instances of failure to maintain or repair. The owner or person in charge of such structure or property shall have sixty (60) days to remedy such violation; provided that the zoning administrator, upon request, may allow an extension of up to sixty (60) days to remedy such violations. Thereafter, each day during which there exists any violation of this section shall constitute a separate violation and shall be punishable as provided in this zoning ordinance.

(9-15-03(3))

**Sec. 34-282. - Application procedures.**

- a. Applications shall be submitted to the director of neighborhood development services, by a property owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person.



Each application shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council.

- b. Prior to submission of an application for a certificate of appropriateness, a property owner or his agent may request a conference with the full BAR, the chairman of the BAR or the director of neighborhood development services ("pre-application conference") to discuss and review a proposal for activities that require such certificate. The principal objective of the conference shall be to simplify and expedite the formal review process.
- c. A pre-application conference with the entire BAR is mandatory for the following activities proposed within a major design control district:
  - 1. Development by the City of Charlottesville, or on land owned by the city;
  - 2. Development on property owned by the city that is being sold for private development;
  - 3. Development being financed in whole or in part by the city, or by a related governmental authority (such as the economic development authority or the redevelopment and housing authority);
  - 4. Development having a projected construction cost of three hundred fifty thousand dollars (\$350,000.00) or more; and,
  - 5. Any other development deemed significant by the director of neighborhood development services or the chair of the BAR, due to its size, location or potential impact on surrounding properties.
- d. The required pre-application conference shall take place prior to an applicant's submission of a completed application.
- e. After the pre-application review, if any, has been completed, and at least twenty-one (21) days prior to the meeting at which an application will be considered by the BAR, a property owner or his agent may apply for a certificate of appropriateness. The following information and exhibits shall be submitted along with each application:
  - 1. Detailed and clear descriptions of any proposed changes in the exterior features of the subject property, including but not limited to the following: the general design, arrangement, texture, materials, plantings and colors to be used, the type of windows, exterior doors, lights, landscaping, parking, signs, and other exterior fixtures and appurtenances. The relationship of the proposed change to surrounding properties will also be shown.
  - 2. Photographs of the subject property and photographs of the buildings on contiguous properties.
  - 3. Samples to show the nature, texture and color of materials proposed.
  - 4. The history of an existing building or structure, if requested by the BAR or staff.
  - 5. For new construction and projects proposing expansion of the footprint of an existing building: a three-dimensional model (in physical or digital form) depicting the site, and all buildings and structures to be located thereon, as it will appear upon completion of the work that is the subject of the application.
  - 6. In the case of a demolition request where structural integrity is at issue, the applicant shall provide a structural evaluation and cost estimates for rehabilitation, prepared by a professional engineer.
- f. The director shall establish submission deadlines for applications. For purposes this division, a complete application shall be deemed to be "officially submitted" on the date of the next submission deadline following the date on which the application was received by the director.

(9-15-03(3); 4-13-04(2), § 1; 6-6-05(2); 9-4-07; 7-16-12)

#### **Sec. 34-283. - Administrative review.**

- a) Notwithstanding any contrary provision of this article, the director of neighborhood development services may review, and may approve or deny, applications for certificates of appropriateness, in the following situations:
  1. Exterior alterations which are shown, through adequate documentation, to have been approved for a tax credit under either the federal rehabilitation tax credit program or the similar Virginia state tax credit program;
  2. The repainting of an existing building or structure in a different color;
  3. The addition or deletion of awnings, canopies, storm windows, storm doors, gutters, and similar appurtenances;
  4. The addition, alteration or removal of any sign(s) where such sign(s) are the sole subject of the application, or where all other improvements comprising part of the application are subject to administrative review under this section or sections 34-1041 through 34-1043; and
  5. Structural changes to a building or structure which do not require issuance of a building permit under the Uniform Statewide Building Code except for the following, which must be reviewed by the BAR: replacement of roof coverings and installation or replacement of siding on any buildings or structures, and replacement of windows and doors on any buildings or structures.
- b) In reviewing an application for a certificate of appropriateness, the director of neighborhood development services shall apply the same criteria and design guidelines that the BAR must use in its review process.
- c) Failure of the director of neighborhood development services to approve or disapprove an application within ten (10) working days from the date the application was submitted shall be deemed approval of the application.
- d) Upon approval of an application by the director of neighborhood development services, the director shall issue the approved certificate. If the application is denied, the director shall mail or hand-deliver written notice of this decision to the applicant, which notice shall set forth the specific reasons for the denial, with reference to specific ordinances, laws or regulations. The director shall inform the BAR of his administrative decisions at the next regular meeting following the date of such decisions.
- e) Following a decision of the director upon an application, the applicant, or any other aggrieved party, shall have ten (10) working days from the date of the decision to appeal that decision to the BAR.
- f) In considering an appeal of a decision of the director, the BAR shall review the application as if the application had come before it in the first instance. In an appeal the BAR may consider any information or opinions relevant to the application, including, but not limited to, those provided by the director.

(9-15-03(3); 7-16-12)

#### **Sec. 34-284. - BAR review and hearing.**

- a) The BAR shall afford each applicant, and any other interested party, an opportunity to be heard, prior to rendering its decision on any application. No published notice of a particular application is required; however, the director of neighborhood development services shall send written notice of the time, date, place and subject of a meeting to the applicant, or his agent, and to each property owner, or his agent, abutting or immediately across a street or road from the property that is the subject of the application, and to all properties having frontage along the same city street block. Notice sent by first class mail to the last known address of such owner or agent, as shown on the city's current real estate assessment books, postmarked not less than fourteen (14) days before the meeting, shall be deemed adequate. A representative of the department of neighborhood development services shall make affidavit that such mailing has been made and file the affidavit with the papers related to the application. Additionally, a sign shall be posted at the property which

is the subject of the application, at least ten (10) days prior to the board's meeting, identifying the time, date, place and nature of the application which has been scheduled for a hearing.

- b) In considering a particular application the BAR shall approve the application unless it finds:
  - 1. That the proposal does not meet specific standards set forth within this division or applicable provisions of the design guidelines established by the board pursuant to section 34-288(6); and
  - 2. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the protected property that is the subject of the application.
- c) An applicant may appear in person at the BAR hearing, or may be represented by an agent or attorney.

(9-15-03(3))

#### **Sec. 34-285. - Approval or denial of applications by BAR.**

- a) Failure of the BAR to act on an application within forty-five (45) days after receipt thereof shall be deemed approval. With the consent of the applicant this time may be extended to eighty-five (85) days.
- b) Following approval of an application by the BAR, the director of neighborhood development services, or any aggrieved person, may note an appeal of the BAR decision to the city council, by filing a written notice of appeal within ten (10) working days of the date of the decision. If no such appeal is noted, then upon the expiration of the ten-day appeal period, the director of neighborhood development services shall issue the approved certificate of appropriateness.
- c) Upon denial of an application (approval of an application with conditions over the objections of the applicant shall be deemed a denial), the applicant shall be provided written notice of the decision, including a statement of the reasons for the denial or for the conditions to which the applicant objects. Following a denial the applicant, the director of neighborhood development services, or any aggrieved person may appeal the decision to the city council, by filing a written notice of appeal within ten (10) working days of the date of the decision.

(9-15-03(3))

#### **Sec. 34-286. - City council appeals.**

- a) An applicant shall set forth, in writing, the grounds for an appeal, including the procedure(s) or standard(s) alleged to have been violated or misapplied by the BAR, and/or any additional information, factors or opinions he or she deems relevant to the application. The applicant, or his agent, and any aggrieved person, shall be given an opportunity to be heard on the appeal.
- b) In any appeal the city council shall consult with the BAR and consider the written appeal, the criteria set forth within section 34-276 or 34-278, as applicable, and any other information, factors, or opinions it deems relevant to the application.
- c) A final decision of the city council may be appealed by the owner of the subject property to the Circuit Court for the City of Charlottesville, by filing with the court a petition at law, setting forth the alleged illegality of the action taken. such petition must be filed with the circuit court within thirty (30) days after council's final decision. The filing of the petition shall stay the council's decision pending the outcome of the appeal; except that the filing of the petition shall not stay a decision of city council denying permission to demolish a building or structure. Any appeal which may be taken to the circuit court from a decision of the city council to deny a permit for the demolition of a building or structure shall not affect the right of the property owner to make the bona fide offer to sell referred to in subparagraphs (d) and (e), below.
- d) In addition to the right of appeal set forth above, the owner of a building or structure, the demolition of which has been the subject of an application appealed to the city council, shall, as a matter of

right, be entitled to demolish such building or structure if all of the following conditions have been met:

1. The owner has appealed to city council for permission to demolish the building or structure, and city council has denied such permission;
  2. The owner has, for the applicable sale period set forth herein below, and at a price reasonably related to the fair market value of the subject property, made a bona fide offer to sell the building or structure, and the land pertaining thereto, to a person or legal entity that gives reasonable assurance that the building or structure will be preserved and restored; and
  3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable sale period.
  4. If all of the foregoing conditions are not met within the applicable sale period, then the city council's decision denying a permit shall stand, unless and until that decision is overturned by the circuit court. However, following expiration of the applicable sale period, a property owner may renew his request to the city council to approve the demolition of the historic landmark, building or structure.
- e) The time in which a property owner may take advantage of the rights afforded by subparagraph (d), above (the applicable "sale period") shall be as follows:
1. Three (3) months, when the offering price is less than twenty-five thousand dollars (\$25,000.00).
  2. Four (4) months when the offering price is equal to or greater than twenty-five thousand dollars (\$25,000.00) but less than forty thousand dollars (\$40,000.00).
  3. Five (5) months when the offering price is equal to or is greater than forty thousand dollars (\$40,000.00) but less than fifty-five thousand dollars (\$55,000.00).
  4. Six (6) months when the offering price is equal to or greater than fifty-five thousand dollars (\$55,000.00) but less than seventy-five thousand dollars (\$75,000.00).
  5. Seven (7) months when the offering price is equal to or is greater than seventy-five thousand dollars (\$75,000.00) but less than ninety thousand dollars (\$90,000.00).
  6. Twelve (12) months when the offering price is equal to or greater than ninety thousand dollars (\$90,000.00).

(9-15-03(3); 5-4-09(2))

**Sec. 34-287. - Board of architectural review; composition.**

- a) The board of architectural review ("BAR") shall be composed of nine (9) members.
- b) Appointments to the BAR shall be made by city council, in the council's discretion, for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired remainder of the vacant term.
  1. No member shall serve for more than two (2) consecutive four-year terms, except for the members initially appointed to fill vacancies, who may serve for two (2) full terms in addition to the vacant term to which they were originally appointed.
  2. All appointees shall be residents of the city; except that a person who resides outside the city, but who owns a business, or who owns commercial or residential property in a design control district, may be appointed to serve on the board.
  3. At least two (2) members of the BAR shall be licensed architects; one (1), a member of the city's planning commission; two (2), owners of a business or commercial property in a design control district; one (1), an owner of residential property or a resident in a design control district; one(1), either a landscape architect or a licensed professional contractor; and two (2) shall be historians or have substantial background in history or historic preservation.

(9-15-03(3))

**Sec. 34-288. - Responsibilities of BAR.**

The function of the board of architectural review ("BAR") shall be to administer the provisions of this division. In carrying out this responsibility the BAR shall:

- 1) Approve, deny, or approve with conditions applications for certificates of appropriateness in accordance with the provisions of this division.
- 2) Recommend additional surveys of potential districts or properties, and recommend properties for inclusion in or deletion from major design control districts or the city's list of protected properties.
- 3) Act in an advisory role to city council and city departments, boards and commissions.
- 4) Disseminate information within the city on historic preservation issues and concerns.
- 5) Develop a preservation plan with goals and recommendations for consideration by the planning commission, and from time to time the board shall update such plan.
- 6) Develop and recommend to the city council for its approval design guidelines for the city's architectural design control districts ("design guidelines"), consistent with the purposes and standards set forth within this division. The BAR shall develop the design guidelines in consultation with the city's urban design committee and after seeking input from business and property owners in the various districts. Guidelines developed by the board shall become effective upon approval by city council and thereafter shall have the status of interpretive regulations. The BAR shall undertake a comprehensive review and update the design guidelines at least once every five (5) years.

(9-15-03(3))

**Sec. 34-289. - Quorum.**

A majority of the entire membership of the BAR shall constitute a quorum.

(9-15-03(3))

**Sec. 34-290. - Chairman; vice-chairman; secretary.**

The BAR shall annually elect from its membership a chairman and vice-chairman, at the first meeting held on or after July first each calendar year. Similarly, the members shall elect a secretary, who may or may not be a member of the BAR.

(9-15-03(3))

**Sec. 34-291. - Removal of members.**

Any member of the BAR may be removed from office by the city council for inefficiency, neglect of duty, malfeasance, or the habitual absence from meetings.

(9-15-03(3))

**Secs. 34-292—34-305. - Reserved.**