

## Article 8. Administration, Procedures, And Enforcement

### Proposed Amendments

#### EDIT No. 20

##### Section 18-840 Windover Heights Certificate of Appropriateness

###### 6. Application and Review Process.

- C. **Final Decision.** The Windover Heights Board of Review shall hear the application and reach a decision of approval, approval with modifications, or denial. The Board may defer its decision and request more information to be transmitted at a future meeting **if time is extended by mutual agreement between the board and the applicant. If such application is approved, a certificate of appropriateness signed by the chair or vice-chair, shall be attached to the application for certificate of appropriateness and transmitted to the zoning administrator, or designee, for issuance.**

#### CORRECTION U

##### Section 18-844 Notifications Generally

###### 4. Certification.

- A. Such affidavit of notification shall include the following **attachements attachments:**

#### CORRECTION V

##### Section 18-852 Notice of Violations and Penalties

2. **Notice of Violation.** When the Zoning Administrator has determined that a violation of this Chapter has ~~occurred~~ **occurred**, the Zoning Administrator will provide written notice of the violation to the owner of the land on which the violation exists and/or the responsible parties. The Notice shall:

#### EDIT No. 21

##### Section 18-855 Other Violations and Penalties

###### 7. **Blighted Property a Nuisance**

- A. The Town Council may, by ordinance, declare any blighted property as defined in this chapter, to constitute a nuisance, and thereupon abate the nuisance pursuant to authority of municipal corporations to so act.
- B. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

**OR, any revisions as recommended by Town Council.**

**Section 18-840 Windover Heights Certificate of Appropriateness**

- 1. Certificate of Appropriateness Required.** Review by the Windover Heights Board of Review is required before the issuance of a building permit or zoning permit for the following actions within the Windover Heights Historic District:
  - A. Erection of a building, accessory building, structure, fence, or sign.
  - B. Changing or altering the exterior architectural character of an existing building, accessory building, or structure to that degree which requires obtaining a building permit.
- 2. Exceptions to when a Certificate of Appropriateness is Required.** A certificate of appropriateness shall not be required in the following cases:
  - A. Erection, alteration or reconstruction of buildings, accessory buildings, structures, fences, or signs when no part of such improvement is subject to public view at any time of the year from a public street, way, or place.
  - B. Repair or replacement of any part of an existing building, including accessory building, structure, fence or sign when using substantially similar materials and maintaining the same architectural features.
  - C. Repair or replacement of a roof on an existing building or accessory building even if different colors or materials are used. However, any change to the existing roofline or profile of the roof shall require a certificate of appropriateness.
  - D. Repair or replacement of existing stoops, porches, entryways, windows, or doors; or the repair, replacement or addition of screens, storm doors, or storm windows.
  - E. Erection of a shed or other accessory structure which does not require a building permit.
  - F. Construction of an in-ground swimming pool. However, a pool constructed so that any part, excepting handrails or diving boards, is more than eighteen (18) inches above ground shall require a certificate of appropriateness.
  - G. The painting or repainting of an existing building, accessory building, structure, fence, or sign.
- 3. Criteria for Review.**
  - A. In its review of any application for a certificate of appropriateness, the Windover Heights Board of Review, or the Town Council, on appeal, shall consider the following aspects of a building, accessory building, structure, fence, or sign:
    - i. Exterior architectural features, including all signs, which are subject to public view at any time of the year from a public street, way or place.
    - ii. General design and arrangement.
    - iii. Texture and material.
    - iv. The relation to similar features of buildings, accessory buildings, structures, fences, or signs in the immediate surroundings.
    - v. Harmony or incongruity with the old and historic aspect of the surroundings.
    - vi. The extent to which historic places and areas of historic interest in the district will be preserved or protected.

vii. Special public value because of architectural and other features which relate to the cultural and artistic heritage of the Town.

B. The board shall not consider interior arrangement, or relative size of the building, accessory building, structure, fence, or sign.

**4. Site Survey Required.** All Windover Heights Board of Review applications shall be submitted with a site plan drawn by a licensed surveyor showing existing lot conditions and the proposed improvements when applicable.

**5. Site Plan May be Required.** Windover Height Board of Review applications associated with a project with two thousand five hundred (2,500) square feet or more of land disturbance require an Infill Lot Plan or Lot Grading Plan.

**6. Application and Review Process.**

A. **Review for completeness.** Applications for the Windover Heights Board of Review are reviewed for completeness by the Director of Planning and Zoning and the Zoning Administrator.

B. **Application deemed complete.** Once the Director of Planning and Zoning and the Zoning Administrator deem the application to be complete, the application and supporting materials are transmitted to the Windover Heights Board of Review.

C. **Final Decision.** The Windover Heights Board of Review shall hear the application and reach a decision of approval, approval with modifications, or denial. The Board may defer its decision and request more information to be transmitted at a future meeting.

D. **Building Permit Application.** Only after the Board has made a final decision, and no appeals have been made, the Director of Planning and Zoning and Zoning Administrator may accept the Building Permit applications for the proposed application. See §18-822, Building Permits.

**7. Appeals.**

A. **Right to Appeal within thirty (30) days.** Any person jointly or severally aggrieved by any decision of the board, including any applicant, any citizen of the Town, and the Town through its Zoning Administrator, may appeal such decision to the Town Council by filing with the Town clerk a written request for appeal. Such appeal shall be filed within thirty (30) days after the decision has been made by the board.

**B. Town Council to hear appeal.**

i. The Town Council shall, within thirty (30) days of receipt of such written request, or within a longer period if agreed upon by the applicant, grant such applicant a full hearing at a public meeting.

ii. Within thirty (30) days of such hearing, and after consultation with the board, the Town Council may reverse or modify the decision of the Board, in whole or in part, or it may affirm the decision of the Board.

## DIVISION 5. NOTIFICATIONS

### Section 18-844 Notifications Generally

1. **Required Notice for Public Hearing.** Each public hearing involving planning and zoning matters before the Town Council, Planning Commission or Board of Zoning Appeals requires notice, as set out in §15.2-2204 of the Code of Virginia, 1950, as amended, and as set forth below.
2. **Responsibility for Notification.** In any case requiring public notification, as shown in §18-804 and §18-805, the Director of Planning and Zoning shall send any notice required by this section and §15.2-2204 of the Code of Virginia, 1950, as amended.
3. **Cost of Notice.** The cost of any notice required by this section shall be paid by the applicant. The cost of placing the original newspaper notice is included in the application fee. The cost of newspaper notices for re-hearings or additional hearings required by the applicant's actions shall be paid separately by the applicant.
4. **Certification.**
  - A. At least five (5) calendar days prior to the hearing, an affidavit, prepared by the person or persons providing all forms of notice, shall be filed with the Director of Planning and Zoning certifying that all required notices have been sent or posted.
  - B. Such affidavit of notification shall include the following attachements:
    - i. A list of names of those to whom notice was sent.
    - ii. Copy of the written notice sent.
    - iii. Proof of copy posted in the newspaper.
    - iv. Photos of placard notice postings.
  - C. A copy of such affidavit shall be included with the application packet presented at the beginning of the public hearing on the application.
5. **Failure to Receive Notice.** Failure by any person to receive any notice of a hearing required by this section, in and of itself, shall not invalidate any action taken at or subsequent to the hearing.
6. **Joint Hearing.** The Planning Commission and Town Council may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the Town Council.
7. **Continued Hearing.** If the hearing is continued, notice of such continuation shall be provided in the same manner as the original notice.
8. **Deferral.** If an item is not heard at the time for which it was noticed and the public hearing is not opened, but is deferred at that time to another date, all notice required by this section shall be given for the new date of the deferred public hearing.
9. **Closed Public Hearings.** If a public hearing is closed but the particular agenda item is not completed, no additional notice is required as long as the date(s) for completion of the public hearing agenda is announced at the hearing that has been closed.

## DIVISION 6. ENFORCEMENT, COMPLIANCE, AND PENALTIES

### Section 18-850 Compliance Required

1. Compliance with all the procedures, standards, and other provisions of this Chapter is required by any person owning, developing, managing, using, or occupying land or structures in the Town.
2. **When a Permit, Order, or Certificate is Required.** It shall constitute a violation of this Chapter for any person (whether owner, agent, or occupant) to do any of the things for which a permit, order or certificate is required by this Chapter without having first obtained the said permit, order or certificate.
3. **Approval Must be Obtained Prior to Development.** All permits and development approvals required by this Chapter must be obtained prior to disturbing or developing land.
4. **Permit Authorizes Work Only Described Within.** Each permit or development approval authorizes only the development set forth in that permit or development approval.

### Section 18-851 Violations Generally

1. **Complaints and Investigation.** Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may make a complaint to the Zoning Administrator, identifying the property and the condition believed to constitute the violation. The Zoning Administrator will make a record of complaints received, promptly investigate, and act to ensure compliance with this Chapter, if appropriate and warranted.
2. **Each Day Shall Constitute a Separate Offense.** Each day during which a violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten (10) day period.
3. **Other Penalties allowed by Code of Virginia.** The Zoning Administrator may exercise any other penalties allowed by the Code of Virginia for violations of this Chapter.

### Section 18-852 Notice of Violations and Penalties

1. **Preliminary Notification of Violation.** The Zoning Administrator, or a representative, may provide a preliminary notification to any person, business or property suspected of a violation of this Chapter. This preliminary notification is not a formal determination and is not subject to appeal.
2. **Notice of Violation.** When the Zoning Administrator has determined that a violation of this Chapter has **occurred**, the Zoning Administrator will provide written notice of the violation to the owner of the land on which the violation exists and/or the responsible parties. The Notice shall:
  - A. Describe the location and nature of the violation.
  - B. Order that the violation be corrected within a specified time.
  - C. State the action(s) that may be taken if the violations are not corrected, though the actions listed may not be exhaustive.
  - D. State that the recipient may have the right to appeal the notice within ten (10) days of receipt for temporary or seasonal, or similar short-term, recurring violations; and within thirty (30) days for all other violations, in accordance with Code of Virginia §15.2-2311 and §18-820 Appeals of Zoning Administrator Decision; and that the decisions will be final and unappealable if not appealed within the time limit.