

Article 3.M:

HP-O, Historic Preservation Overlay District

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HP-O, Historic Preservation Area Overlay District

A. Purpose and Intent:

1. The HP-O, Historic Preservation Areas Overlay District fulfills the Comprehensive Plan's goal of recognizing Smithfield's unique character and promoting the conservation and preservation of the Town's historic resources and properties. The preservation and growth management of the Town's downtown business district, waterfront areas and historic residential neighborhoods are fundamental to implementing Smithfield's future land use plan.
2. The HP-O District is established in accord with Section 15.2-2306 of the Code of Virginia, as amended, to maintain, preserve, protect and enhance the architectural excellence, cultural significance, economic vitality, visual quality and historic importance of the Town. The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments or other features or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic or architectural heritage of the Town of Smithfield and the Commonwealth of Virginia.
3. The district is designed to protect designated landmarks and other historic or architectural features and their surroundings within a reasonable distance from destruction, damage, defacement and obviously incongruous development or uses of land. It is also designed to ensure that buildings, structures or signs shall be erected, reconstructed, altered or restored so as to be architecturally compatible with the historic landmark buildings or structures within the district.

B. District Boundaries:

1. To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the HP-O District has been created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by either a special symbol for its boundaries on the Zoning District Map or a separate historic areas overlay map.
2. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum heights and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the HP-O District is superimposed,

except as these other district regulations may be modified by application of the regulations in the HP-O district.

3. The general boundaries of the HP-O District have been drawn and adopted by the Town Council so as to include all lands closely related to and bearing upon the character of the historic district, thus composing a landscape unit and affording transitional regulations needed to control potentially adverse and conflicting environmental influences.
4. The HP-O District boundaries shall be delineated as an overlay district on the Official Zoning Map for the Town or a separate historic areas map incorporated by reference into the Official Zoning Map, and shall be otherwise described as the Local Historic District in the Smithfield Historic District Design Guidelines, with amendments as may be adopted from time to time.

C. Permitted Uses and Limitations:

A building or land shall be used only for the following purposes, and except as provided herein, in each case shall be subject to approval by the Board of Historic and Architectural Review (hereinafter "Review Board") or Planning and Zoning Administrator, as the case may require, in accordance with the standards set forth in this article:

1. All uses shall be governed pursuant to the underlying district regulations of the zoning district in which the HP-O District is applicable.
2. Nothing in this article shall be construed to prevent the application of the building code or other laws and ordinances of the Town of Smithfield which are applicable thereto.
3. Parking and loading provisions shall be in accordance with the provision of the zoning ordinance unless otherwise restricted by the conditions of Review Board approval.
4. The charging of admission fees for visitors, or visitor tours, visitor centers or services within the HP-O District, shall not be considered as commercial uses, but shall require a special use permit.
5. Any special use permitted in the zoning district in which the premises are located is subject to the procedures and standards of this ordinance for approval of said special use permits and shall be subject in all cases to a report by the Review Board in accordance with the purposes and standards of the HP-O District.

(Ord. of 2000-09-05; Ord. of 2004-05-04)

D. Inventory of Landmarks and the Contributing Properties Established

1. A map entitled "Town of Smithfield, Virginia Historic Preservation Overlay," hereinafter called "the Inventory Map," has been adopted and shall be as much a part of this ordinance as if fully described herein and shall be filed as a part of the ordinance by the Clerk of the Town of Smithfield.
2. All structures designated on said map as structures from the 18th century to pre-Civil War or structures with architectural significance from the period after the Civil War shall be considered as landmarks or landmark structures.
3. Properties designated as properties which contribute to the historic character of the Town but which do not contain landmark structures shall be known as contributing properties for the purpose of the ordinance.
4. Properties designated as non-contributing are vacant lots, or those which feature a primary building with one (1) or more of the following features:
 - (a) Less than fifty (50) years of age.
 - (b) Alterations to such an extent that it is no longer representative of the period in which it was constructed.
 - (c) Degradation to such a poor condition that its preservation is difficult.
 - (d) It is unexemplary of any particular architectural style.
 - (e) It has no architectural merit.
5. To remove any ambiguity as to the boundaries of the HP-O District, and to align interpretations of the Inventory Map, attached thereto shall be a list of all tax parcel identification numbers, addresses, and designations for all properties located within the HP-O District.
6. To reflect changes in the HP-O District which occur in real time, the Administrator shall update or amend the Inventory Map and property inventory from time to time with the Review Board's approval. In the event that an amendment to the Inventory Map and property inventory results in a change in the classification of any property in the HP-O District, the Administrator shall refer this change to the Review Board for their review and recommendation, with final review and decision rendered by the Town Council.

(Ord. of 2020-12-01)

E. HP-O District Administration: Board of Historic and Architectural Review

1. Membership: The Review Board shall consist of seven (7) citizens, at least three (3) of whom shall be residents of the historic district and five of whom shall be residents of the Town of Smithfield, appointed by the Town Council. One of the members shall be a licensed architect or building contractor, one shall be a member of the Town Planning Commission and one shall be a citizen who has demonstrated outstanding interest and knowledge in historical or architectural development within the Town. The Review Board shall elect its chairman and the term of office shall be for four years, except that original appointments shall be made for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be made only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The Review Board shall adopt rules of procedure and keep written minutes of its meetings.
2. General Considerations for Review: In general it is the purpose of this Ordinance to establish review procedures for actions affecting properties in the HP-O Historic Preservation Overlay District which will be relatively simple, with minimum delay for those actions which will have little if any permanent effect on the character of the historic district or on a significant structure but also to require a more thorough review for actions which may have a substantial effect on the character of the district or on a significant structure.

Certain actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Planning and Zoning Administrator acting alone, by the Planning and Zoning Administrator acting after informal consultation with the Review Board, by the Review Board acting with original jurisdiction, or in the most serious cases, action by the Town Council following action by the Review Board. The decisions of the Planning and Zoning Administrator may be appealed to the Review Board, the decisions of the Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Isle of Wight County.

The Review Board shall consider, among other things, the following in determining the appropriateness of any erection, reconstruction, exterior alteration, or restoration:

- A. The compatibility with the design, development standards, and criteria as included in the Town's adopted Historic District Architectural Design Guidelines (adopted December, 1990) with additions and amendments as may be adopted from time to time.

- B. The appropriateness of the general design geometry and proportions, structural arrangement, building materials, texture and color of the proposed building, structure or appurtenant element in relation to such factors as the compatibility with similar features of buildings or structures within the area circumscribed by the subject overlay district(s).
- C. The historical or architectural value and significance of the building, structure or appurtenant element and its relationship to the historic or architectural value of the area in which it is proposed to be located.
- D. The extent to which the building, structure or appurtenant element will be harmonious with or architecturally incompatible with the historic buildings within the subject overlay district(s).
- E. The compatibility of planned improvements and renovations with the architectural and historic quality, character and scale of the historic buildings in the Town of Smithfield.
- F. The effect of the building, structure or appurtenant element on the Comprehensive Plan's goals for tourism, economic development and residential land uses in and around the historic areas in the Town of Smithfield.
- G. The compatibility of the proposed building, structure or appurtenant element with the Comprehensive Plan's goals for historic preservation and architectural design review.
- H. The ability of the owner to put one's property to reasonable and beneficial use.

3. Certain Minor Actions Exempted from Review: Certain minor actions which are deemed not to permanently affect the character of the historic district are exempted from review for architectural compatibility. Such actions shall include the following and any similar actions which, in the opinion of the Planning and Zoning Administrator, will have no more effect on the character of the district than those listed:

- A. Repainting resulting in the same or like color. (Original painting of masonry surfaces is not exempted from review.)
- B. Addition or deletion of windows, storm windows and doors, that match existing windows, storm windows, and doors. Addition or deletion of window air conditioners.

- C. Addition or deletion of television or radio antennas, skylights, solar collectors, or satellite dishes, in locations not visible from a public street.
- D. Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a landmark site.
- E. Permitted outside storage in any residential, office, business or industrial district which is not visible from a public street.
- F. Any changes within a structure which are not visible from a public street.

Notwithstanding the above, the Planning and Zoning Administrator shall have the authority to order that work be stopped and that an appropriate application be filed for review in any case where the action may produce arresting effects, violent contrasts of materials or colors and intense and lurid colors or patterns, or incongruous details inconsistent with the character of the present structures or with the prevailing character of the surroundings and the historic district.

- 4. Additional Considerations for Demolition and Razing: In reviewing an application to raze or demolish a site, object building or structure in the HP-O District, the Review Board shall consider the following:
 - A. Except as provided by law, no designated landmark building or landmark structure within an HP-O District shall be razed, demolished or moved until razing, demolition or moving is approved by the Review Board or, on appeal, by the Town Council as herein provided.
 - B. Buildings and structures within the HP-O Overlay District, but not designated on the inventory map either as landmarks or as contributing properties, may be razed, demolished or moved with approval of the Planning and Zoning Administrator.
 - C. No building or structure designated as a contributing property shall be razed, demolished or moved until razing, demolition or moving is approved by the Review Board.
 - D. An appeal to the Town Council shall be automatic from any decision of the Review Board, whether favorable or unfavorable, on an application for razing, demolition or moving of a designated landmark.

5. Approval of Certain Minor Actions by the Planning and Zoning Administrator:
 - A. Certain actions which are deemed to result in only minor effects on the character of the historic district may be approved by the Planning and Zoning Administrator for any structure, including designated landmarks and contributing properties, upon submittal of an appropriate application as described hereinabove.
 - B. Such action shall include the following and any similar actions which in the opinion of the Planning and Zoning Administrator will have no more effect on the character of the district than those listed:
 - (1) Addition or deletion of outside doors, window frames, shutters, permanent canopies and similar appurtenances.
 - (2) Application or use of exterior materials of a similar kind, type, color or texture of those already in use which will substantially cover one or more sides of the structure but which will not result in destruction or replacement of original exterior material. This provision applies to roofing as well as siding.
 - (3) Minor additions or deletions to the structure which will not substantially change the architectural character of the structure or which are generally hidden from public view.
 - (4) Construction of accessory buildings and structures which are generally in keeping with the character of the existing structure and its surroundings except on a site adjacent to a designated landmark site.
 - (5) Construction of piers, docks and bulkheads.
 - (6) Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small fountains, ponds and the like, which will not substantially affect the character of the property and its surroundings.
 - (7) Any sign permitted in a residence district and any permitted non-illuminated flat sign not exceeding 32 square feet in area in a business or industrial district.

- (8) Off-street loading areas and off-street parking areas containing ten spaces or less in a business or industrial district.
- (9) Outside storage which does not require structural changes or major grading in a business or industrial district and is not visible from a public street.

C. The Planning and Zoning Administrator shall be guided in his decisions by the standards and guidelines established for the Review Board and shall have authority to request modifications of a specific proposal in order that the proposal may comply with said standards and guidelines.

D. In any case where the Planning and Zoning Administrator is uncertain of his authority to act on a particular application under this section or in any case where the Planning and Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the Review Board for action by said Review Board.

E. In case of disapproval by the Planning and Zoning Administrator, the applicant may appeal the Planning and Zoning Administrator's decision within thirty days thereof, to the Review Board.

F. The Planning and Zoning Administrator shall keep a record of his decisions under this section and shall report such decisions to the Review Board at its next regular meeting.

6. Approval of Certain Major Actions by the Planning and Zoning Administrator-Properties Other Than Designated Landmarks or Contributing Properties:

A. In addition to its granted authority hereinabove for all properties in the HP-O District, the Planning and Zoning Administrator shall, for properties not designated as landmark or contributing properties on the inventory map, have authority to approve any of the major actions as listed hereinbelow except construction of a new main building or accessory building on a site adjacent to a designated landmark site. This is provided that the Planning and Zoning Administrator determines that such action will not substantially and permanently affect the character of the HP-O District in an adverse way, and further provided that he consults with the members of the Review Board and receives approval of his action by a majority of the membership thereof.

- B. The Planning and Zoning Administrator shall be guided in his decisions under this section by the same standards and guidelines established for the Review Board hereinbelow and shall have authority to request modification of proposed changes in order to comply with those standards and guidelines.
- C. In any case where the Planning and Zoning Administrator is uncertain of his Authority to approve an application under this section or in any case where the Planning and Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the Review Board for action by the said Review Board.
- D. In case of disapproval by the Planning and Zoning Administrator the Applicant may appeal said decision within 30 days thereof to the Review Board.
- E. The Planning and Zoning Administrator shall have no authority to grant special exceptions or variances as these are provided for elsewhere in the Zoning Ordinance.

7. Approval of Major Action by the Review Board:

- A. The following major actions and any other actions not specifically exempted by the terms of this Ordinance or which, in the opinion of the Planning and Zoning Administrator, may constitute a major permanent and detrimental change to the character of the HP-O District, shall be approved only after a public meeting and favorable action by a majority of the Review Board:
 - (1) Razing, demolishing or moving of a designated landmark or contributing building or accessory.
 - (2) Construction of a new main building at any location or a new accessory building on a site adjacent to a designated landmark site.
 - (3) Any addition to, or substantial alteration of, a designated landmark or structure on a contributing property which increases the square footage of the structure or otherwise alters substantially its size, height, contour or outline.
 - (4) Any change or alteration of the exterior architectural style of a designated landmark or contributing property, including removal or rebuilding of porches, dormers, cupolas, stairways, terraces and the like.

- (5) Addition to or removal of one or more stories pertaining to a designated landmark or contributing property.
- (6) Alteration of the roof line of a designated landmark or contributing property.
- (7) Landscaping which involves major changes in grade or walls and fences more than three-and-one-half feet in height.
- (8) Illuminated signs or any sign over 32 square feet in area.
- (9) Any other major actions not specifically covered by the terms of this section but which would have a substantial effect on the character of the historic district.

B. The Review Board shall be guided in its decisions by the standards and guidelines established in this article and in the Historic District Design Guidelines. The Review Board shall have authority to request modification of proposed actions in order to comply with said standards and guidelines.

C. The Review Board shall not disapprove an application except with respect to the standards and guidelines in this article. The Review Board shall give reasons for its decisions, shall act promptly on applications before it and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this ordinance. The Review Board shall not be strict in its judgment of plans for structures of little historic or architectural value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding structures or of the surrounding area.

D. The Review Board is not required to limit new construction, alterations or repairs to the architectural style of any one period and may seek advisory assistance from experts in such fields as the Review Board's work requires.

E. Meetings of the Review Board are open to the public. Adequate notice shall be given to applicants but meetings need not be advertised in advance except in the case of a proposal to demolish or move a designated landmark.

8. Application Process: All applications for Review Board approval under the provision of this article shall be made to the Planning and Zoning Administrator at least twenty-one

(21) calendar days before the next regularly scheduled meeting of the Review Board. Upon receipt of a complete application, the Planning and Zoning Administrator shall forward the application to the designated Secretary of the Review Board.

9. Application Submission Requirements: In consideration of a complete application, the Planning and Zoning Administrator or the Review Board may require any or all of the following information and any other materials as may be deemed necessary for its review:

- A. Statement of proposed use and user.
- B. Statement of estimated construction time.
- C. Photographs and maps relating proposed use to the surrounding property and/or the corridor on which it is located.
- D. Site plan drawings, showing the location of the existing and proposed building and site improvements, including:
 - (1) Existing property boundaries, building placement and site configuration,
 - (2) Existing topography and proposed grading,
 - (3) Location of parking, pedestrian access, signage, exterior lighting, fencing and other site improvements,
 - (4) Relationship to adjacent land uses,
 - (5) Proposed site improvements, including location of parking, pedestrian access, signage, exterior lighting, fencing, buildings and structures and other appurtenant elements and
 - (6) Proposed building color and materials
- E. Architectural drawings showing plan view and elevations of new planned construction or renovations, including drawings of original building.
- F. A landscaping and buffer plan.

G. Designs for exterior signing, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs.

10. Incomplete Applications: Applications deemed incomplete by either the Planning and Zoning Administrator or the Review Board shall be returned to the applicant within fourteen (14) calendar days of initial application submission. The returned application shall include a letter prepared by the Planning and Zoning Administrator with adequate instructions to inform the applicant of additional information required to complete the submission. The Review Board will not act upon an incomplete application.

11. Certificate of Appropriateness Evidence of the approval required under the terms of the HP-O District shall be a Certificate of Appropriateness issued by the Review Board, or the Planning and Zoning Administrator as the case may require, stating that the demolition, moving or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration or restoration for which application has been made, are approved by the Review Board or the Planning and Zoning Administrator, as the case may require. The Review Board, or the Planing and Zoning Administrator in a case within his authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit requiring certificate of appropriateness shall be in accord with the application and material approved.

12. File of Actions to be Maintained: In order to provide guidance for application of standards and guidelines, for the improvement of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Planning and Zoning Administrator and the Review Board shall maintain a file containing a record of all applications brought before them, including drawings and photographs pertaining thereto and the decision of the Planning and Zoning Administrator or the Review Board in each case. The file documents shall remain the property of the Town but shall be held available for public review.

13. Inspection by the Planning and Zoning Administrator After Approval: When a Certificate of Appropriateness has been issued, the Planning and Zoning Administrator shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violation any ordinances of the Town. The Planning and Zoning Administrator may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

Every application approved by the Board of Historic and Architectural Review (BHAR) shall be subject to the following conditions:

- A. The applicant(s) shall begin construction, installation, etc. of their approved BHAR project within one (1) year from the date of approval; and
- B. The applicant(s) shall complete the project within two (2) years from the date of BHAR approval.

If these two conditions are not met, then the application becomes null and void, and the applicant(s) shall reapply to the BHAR.

14. Delay of Approval:

- A. In the case of a proposal other than for demolition or moving but involving a designated landmark where the Review Board or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner, and where the Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use.
- B. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Review Board or, on appeal, by the Town Council.

15. Conditions Imposed by the Review Board:

- A. In approval of any proposal under this section, the Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including, but not limited to, the specifications enumerated in the "Conditional Zoning and Proffers" and "Board of Zoning Appeals" articles of this ordinance.
- B. An appeal from a decision by the Review Board may be taken to the Town Council by the owner of the property in question. Such appeal shall be enacted within 30 days after the decision appealed from by filing with the Planning and Zoning Administrator a notice of appeal specifying the grounds thereof. The Planning and Zoning Administrator shall forthwith transfer to the Secretary of the

Town Council all the papers constituting the record upon which the action appealed from was taken.

- C. The Town Council shall fix a reasonable time for the hearing on the appeal and give public notice thereof as required by the Zoning Ordinance and decide the same within 60 days.
- D. Any party may appear in person or be represented by an agent or by an attorney at the hearing.
- E. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Review Board.

16. Appeal of Review Board Decision:

- A. Any person aggrieved by any decision of the Review Board may appeal such decision to the Town Council, provided that such appeal is filed within fourteen (14) calendar days from the date of notification of the Review Board decision.
- B. The Town Council shall consult with the Review Board in relation to any appeal and may require documentation of any Review Board decision prior to hearing the appeal. The Town Council may affirm, reverse or modify the Review Board decision and shall notify the Planning and Zoning Administrator of its action.

17. Appeal of City Council Decision: Any person aggrieved by any decision of the Town Council may appeal such decision to the local circuit court provided that such appeal is filed within thirty (30) days after the final decision is rendered by the Town Council. The filing of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the circuit court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a historic landmark, building or structure.

18. Appeal to the Circuit Court from a Decision of the Town Council: An appeal from a final decision of the Town Council may be filed with the Circuit Court of Isle of Wight County within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the Review Board. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that

the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building or structure. The court may reverse or modify the decision of the Town Council, in whole or 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. It may affirm the decision of the Town Council.

19. Alternate Procedure - Offer to Sell:

- A. In addition to the right of appeal hereinabove set forth, the owner of a designated landmark, building or structure, the razing or demolition of which is subject to the provisions of this article, shall as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:
 - (1) The owner or applicant has applied to the Town Council for such right;
 - (2) The applicant has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably 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 Town 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 landmark, building or structure and the land pertaining thereto; and
 - (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, 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.
- B. Any appeal which may be taken to the court from the decision of the Town 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.
- C. No offer to sell shall be made more than one year after a final decision by the Town Council, but thereafter the owner may renew his request to the Town Council to approve the razing or demolition of the designated building, landmark or structure.

D. The time schedule for offers to sell shall be as follows:

- (1) Three (3) months when the offering price is less than twenty-five thousand dollars,
- (2) Four (4) months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars,
- (3) Five (5) months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars or more but less than seventy-five thousand dollars,
- (4) Six (6) months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars,
- (5) Seven (7) months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars and
- (6) Twelve (12) months when the offering price is ninety thousand dollars or more.

20. Provisions for Demolition and Razing: In addition to the right of appeal herein set forth, the owner of a site, object, building or structure, the razing of which is subject to the provisions of this district shall, as a matter of right, be entitled to raze or demolish such site, object, building or structure provided that:

- A. The owner has applied to the Town Council for such right.
- B. The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such site, object, building or structure and the land pertaining thereto to whomever gives reasonable assurance that it is willing to preserve and restore the landmark, building, or structure and the land pertaining thereto.
- C. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, 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.

D. Any appeal which may be taken to court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provision 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.

E. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure.

The time schedule for offers to sell shall be as follows:

- (1) Three (3) months when the offering price is less than twenty-five thousand dollars,
- (2) Four (4) months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars,
- (3) Five (5) months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars or more but less than seventy-five thousand dollars,
- (4) Six (6) months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars,
- (5) Seven (7) months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars and
- (6) Twelve (12) months when the offering price is ninety thousand dollars or more.

E. During the timeframe for the offer to sell, the Review Board may take steps as deemed necessary to preserve, acquire or relocate the buildings, structures or appurtenant elements in accord with the purposes of this article, including, but not limited to, coordination with public agencies, civic groups and citizens.

(Ord. of 2004-05-04)

F. Standards for Review:

1. Historic District Design Guidelines: In order to achieve the purposes of the HP-O District, the Planning and Zoning Administrator and the Review Board shall be guided in their decisions by the stated purposes of the HP-O District, by the architectural standards and general guidelines set forth below and by specific guidelines for rehabilitation and new construction, removing buildings and streetscape as set forth in the Smithfield, Virginia Historic District Design Guidelines as adopted in December 1990. These guidelines may be supplemented from time to time by additional standards and guidelines adopted and published by the Review Board.
2. Application of Guidelines for Review: In application of the standards and guidelines it should be recognized that the HP-O District in Smithfield presently has, and to an extent always has had, considerable diversity in its architecture. Therefore, a variety of architectural detail can be tolerated where such a variety would not be acceptable in the case of a community where consistency in architectural detail is the key to the preservation of the charm of the historic district.

A. General Guidelines for All Decisions

- (1) The public necessity of the proposed construction, demolition or use.
- (2) The public purpose or interest in land or buildings to be protected.
- (3) The historic or architectural value and significance of a particular structure and its relationship to the historic value of the surrounding area.
- (4) The age and character of a historic structure, its condition and its probable life expectancy and the appropriateness of the proposed changes to the period or periods during which the structure was built.
- (5) The general compatibility of the site plan and the exterior design arrangement, texture and materials proposed to be used.
- (6) The view of the structure or area from a public street or road; present and future.
- (7) The present character of the setting of the structure or area and its surroundings.

B. Architectural Guidelines for New Construction

- (1) Where new construction is proposed the design should take into account those special visual and special qualities that the HP-O District is established to protect, including building heights; scale of buildings; orientation, spacing and site coverage of buildings; facade proportions and window patterns; size, shape and proportions of entrance and porch projections; materials, textures, color; architectural details; roof forms; horizontal or vertical emphasis and landscaping, walls and fences.
- (2) Since architectural styles and details vary from one section of the HP-O District to another, application of architectural guidelines for new construction should recognize relationships among buildings in their immediate setting rather than specific styles or details.

C. Architectural Guidelines for Rehabilitation, Repair or Alteration of Existing Structures

- (1) Every reasonable effort should be made to provide a compatible use for a property which requires minimal alteration of the building structure or sight and its environment, or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a building structure or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) All buildings, structures and sites should be recognized as properties of their own time. Alterations that have no historical basis and which seek to create an earlier appearance should be discouraged.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship, especially hardware, woodworking and masonry details which characterize a building structure or site should be treated with special care.

- (6) Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event replacement is necessary the new material should match the material being replaced in size, shape, design, color, texture, and other visual quality. Repair or replacement of missing architectural features should be based on actual duplications of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic buildings should not be undertaken.
- (8) Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- (9) Contemporary design for alterations and additions to existing properties should not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property and its surroundings.
- (10) Whenever possible, new additions or alterations to structures should be undertaken in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

D. Guidelines for Signs: Refer to Article 10, *Sign Regulations*, and the "Smithfield, Virginia Historic District Design Guidelines Manual".

E. Guidelines for Parking Areas: All parking areas should be suitably landscaped and generally screened from public view by fences, walls or screen planting. Paved parking areas other than driveways should generally be located to the side or rear of buildings and not located between a building and the street.

F. Landscaping and Accessory Structures: Plants, trees, fencing, walls, walkways, gazebos and other outbuildings should be retained or designed to reflect the property's history and development. Underground utilities should be encouraged at all locations. Mechanical equipment should be placed in inconspicuous

locations. Municipal utility appurtenances should be selected to harmonize with the character of the historic district or placed in inconspicuous locations.

G. Maintenance and Repair Required: All buildings and structures in the HP-O 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 feature, or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but 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 plaster or mortar;
- (5). The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
- (6). The peeling of paint, rotting, holes, and other forms of decay;
- (7). The lack of maintenance of surrounding environment e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping and
- (8). The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

After notice by the Review Board by certified or registered mail of specific instances of failure to maintain or repair and of the opportunity to appear before the Review Board, the owner or person in charge of said structure shall have 90 days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in the Zoning Ordinance. In the alternative, if the owner fails to act, the Review Board may order the Planning and Zoning Administrator, after due notice to the owner, to enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure. The reasonable costs thereof shall be placed as a lien against the

property or, in a proper hardship case, paid by the Town from a fund established for such purposes.

(Ord. of 2000-09-05)

G. Additions to the HP-O District

The Town Council may adopt an ordinance setting forth the historic landmarks within the Town as established by the Virginia Historic Landmarks Commission, and any other property, buildings or structures within the Town having an important historic, architectural or cultural interest, and any historic areas within the Town as defined by Section 15.2-2306 of the Code of Virginia. The Council may also amend the existing zoning ordinance by delineating one or more of the historic districts adjacent to such landmarks, buildings and structures or encompassing such historic areas, provided that such amendment of this ordinance and the establishment of such district or districts shall be in accordance with the provisions of the Code of Virginia and the provisions of the Town Code, relative to amendments to this ordinance.

(Ord. of 2020-12-01)

H. (Repealed by Ord. of 2020-12-01)