

DRAFT: September 12, 2021

ARTICLE 14B. - HISTORIC PRESERVATION OVERLAY ZONE

Section 1. - Intent.

The Historic Preservation Overlay Zone is intended to implement the Purcellville Comprehensive Plan goal of amending the Town's historic zoning overlay district to be more inclusive of all historically contributing structures. The purpose of these regulations is to promote the health, safety, and general welfare of the public through the identification and preservation, of buildings, structures, landscapes, settings, neighborhoods, places and features recognized by the Commonwealth of Virginia through its historic registries as having special historical, cultural, architectural and archaeological significance through the establishment of historic districts, and through the protection of other significant properties. To achieve these general purposes, the Town seeks to take the following steps to preserve and protect buildings, structures and properties that serve as important visible reminders of the historic, cultural, architectural, and archaeological heritage of the Town:

- A. Administer the process of reviewing and approving properties for demolition.

Section 2. - Applicability.

The Historic Preservation Overlay Zone is created to conserve elements of the Town's historic character and in accordance with Code of Virginia § 15.2-2306 to preserve and protect: (i) historic landmarks as may be established by the Virginia Board of Historic Resources and any other buildings or structures within the Town having an important historic, architectural or cultural interest and any historic areas within the Town as defined by Code of Virginia § 15.2-2201; or (ii) designated historic landmarks, buildings, structures or districts.

2.1 Historic Preservation Overlay Zone

- A. The Purcellville Historic Preservation Overlay Zone is hereby established over and upon the parcels of land within the boundaries of Purcellville, but not lying within the Historic Corridor Overlay District (see Article 14A), where the principal use is a contributing historic structure¹ as defined in this Article, as the parcel existed on the original adoption date of these historic regulations and as shown on the Purcellville Zoning Map; and
- B. Unless otherwise expressly exempted, no structure or building within the Historic Preservation Overlay Zone shall be demolished unless and until a certificate of design approval authorizing such work shall have been approved by the Board of Architectural Review or, on appeal, by the Town Council after consultation with the Board of Architectural Review, in accordance with this Article.

¹ That the United States Department of the Interior National Park Service National Register of Historic Places and the Commonwealth of Virginia Landmarks Register have designated as contributing buildings and structures in Purcellville (DHR #286 as well as a few contributing buildings and structures registered as part of DHR #053).

2.2 Definitions.

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

- A. Structure. Anything man-made that is not an accessory building or an accessory use as defined in Article 15, Section 2.
- B. Historic structure. Any structure that is:
- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or the Virginia Landmarks Register or preliminarily determined as meeting the requirements of individual listing on the National Register or Virginia Landmarks Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior or the Virginia Department of Historic Resources as contributing to the historical significance of a registered historic district or zone, or a district preliminarily determined by the Secretary of the Interior or the Virginia Department of Historic Resources to qualify as a registered historic district;
 - (3) Individually listed on a local inventory of historic structures including the National Register of Historic Places, the Virginia Department of Historic Resources, and the African American Architectural Surveys; or
 - (4) Designated for protection by the town as a historic structure.
- C. Contributing. Any building, object, or structure that adds to the historical integrity or architectural qualities that make a historic district or zone significant.
- D. Historic preservation professional. A person or firm who have professional qualifications to conduct evaluations of the historic character and significance of manmade structures, historic sites, etc., including, but not limited to architectural historians, historians and archaeologists.

A historic designation for properties not yet surveyed or designated under items (1) through (4) above shall be made by the zoning administrator on a case-by-case basis under the written opinion of an historic preservation professional, such as an architectural historian or historian, or because they become formally recognized by the National Register of Historic Places and/or the Virginia Department of Historic Resources.

2.3 Demolition permit review and approval.

No historic structure, as defined in this Article, within the Historic Preservation Overlay Zone shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the Board of Architectural Review, or, on appeal, by the Town Council after consultation with the Board of Architectural Review.

In addition to the right of appeal set forth herein, the owner of a historic structure, the razing or demolition of which is subject to the provisions of this section, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) the owner has applied to

the Town Council for such right, (ii) the owner has for the period of time set forth in the schedule contained in Code of Virginia § 15.2-2306 and at a price reasonably related to its fair market value, made a bona fide offer to sell the 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 (iii) 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 specified in the Code of Virginia. 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. 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 historic landmark, building or structure.

Section 3. - Permitted uses.

3.1 By right.

The following uses shall be permitted by right in any Historic Preservation Overlay Zone:

- A. All uses permitted by right in the underlying districts except as herein otherwise provided.

3.2 By special use permit.

The following uses are authorized within the Historic Preservation Overlay Zone only by special use permit:

- A. All uses authorized by special use permit in the underlying districts.

Section 4. - Area and bulk regulations; minimum yard and setback requirements; height requirements; landscaping and screening; preservation of natural features.

4.1 Area and bulk regulations, minimum yard and setback requirements, and height regulations shall be as provided by the underlying district.

4.2 Historic Preservation Overlay Zone.

Section 5. - Nonconformities.

5.1 Any existing use, activity, lot or structure subject to the provisions of the Historic Preservation Overlay Zone, which does not conform to the provisions of the Historic Preservation Overlay Zone shall be subject to Article 5, Nonconformities, of this ordinance.

5.2 Repair and maintenance of nonconforming structures.

An owner may repair and maintain a nonconforming structure or a structure occupied or used by a nonconforming use.

Section 6. - Administration.

Article 14B, Historic Preservation Overlay Zone, shall be administered by the Board of Architectural Review created and appointed by the Purcellville Town Council pursuant to Chapter 54, Article II of the Town Code. The Board of Architectural Review shall be responsible for issuance of certificates of design approval as required by this Article 14B.

Application for a certificate of design approval for demolition, together with a fee as adopted by the Town Council, shall be filed by the owner or contract purchaser of the subject property with the zoning administrator. Complete applications with the required fee must be received by the zoning administrator at least 14 calendar days prior to the Board meeting at which consideration is desired.

Upon receipt of a complete application, the zoning administrator shall schedule the same for hearing and shall cause notice of such hearing to be sent to the Board of Architectural Review. The Board shall confer with the applicant at the hearing and shall approve or disapprove such application and, if approved, shall issue a certificate of design approval, with or without conditions together with such modifications as deemed necessary to ensure compliance with this Article. Failure of the Board of Architectural Review to approve or disapprove such application within 60 days from the date of complete application shall be deemed to constitute approval of the application.

Section 7. - Appeals.

The Town Council reserves unto itself the right to review all decisions of the Board of Architectural Review made in the administration of Article 14B which, in its discretion, it shall deem necessary to the proper administration hereof.

Any person aggrieved by any decision of the Board of Architectural Review in the administration of this Article may demand a review of the application by the Town Council. Such demand shall be made by filing a request therefore in writing with the zoning administrator with the appropriate fee within ten calendar days of the date of such decision. The Town Council may affirm, reverse or modify, in whole or in part, the decision of the Board of Architectural Review. In considering an appeal, the Town Council shall give due consideration to the recommendations of the Board of Architectural Review together with such other evidence as it deems necessary for a proper review of the application.

Any person or persons jointly or severally aggrieved by any decision of the Town Council may appeal such decision to the Loudoun County Circuit Court for review by filing a petition at law, setting forth the

alleged illegality of the action of the Town Council, provided such petition is filed within 30 days after the final decision is rendered by the Town Council. The filing of said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court.

Section 8. - Design criteria.

8.1 Demolition permit criteria.

In reviewing demolition applications, the Board of Architectural Review shall consider the following:

- A. The designation of the particular structure as historic or non-historic by a qualified historic preservation professional or by a government-recognized historic survey;
- B. The context of the structure in relation to surrounding buildings and landscape on the site and adjacent and nearby sites; and
- C. The appropriateness, as determined through application of applicable design criteria and guidelines, of proposed structures, which will replace the demolished structure, if any; and
- D. The safety and soundness of the historic structure.

Section 9. - Deviations from approved plans.

Any person who once having obtained the approval required by this Article deviates substantially from the approved plan shall be subject to the violations and penalties specified in Article 11, section 17 of this ordinance.