

§15.8. CERTIFICATE OF APPROPRIATENESS (COA)

§15.8.1. Applicability

- A. After the designation of an historic district, no exterior portion of any building or other structure (including walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness (CoA) has been submitted to and approved, in accordance with §15.8.5 below, by the Review Board or its designee, or, on appeal from a decision of Review Board, by the County Board as being architecturally or historically compatible with the historic district, buildings, or structures therein.
- B. The CoA must be issued by the Review Board or its designee, or, on appeal, by the County Board prior to the issuance of a building permit (or other permit granted for purposes of constructing or altering structures).
- C. A CoA shall be required regardless of whether or not a building permit is required.

§15.8.2. Required findings

The Review Board may authorize county staff to issue certificates of appropriateness that meet certain standards. Staff may administratively issue CoA where the Review Board has specified:

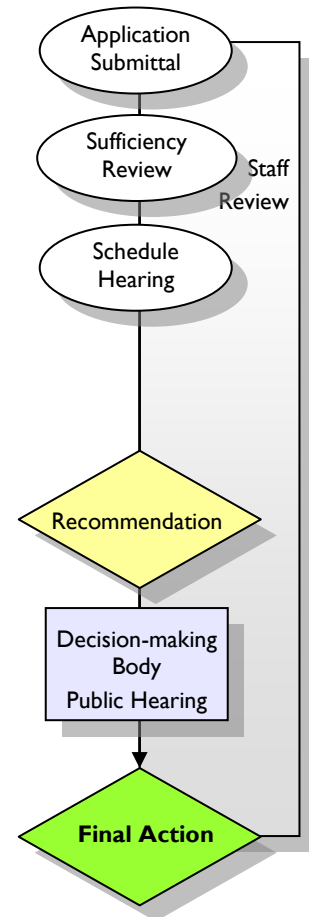
- A. The properties eligible for designee action;
- B. The specific category of modifications for which the designee may grant a CoA; and
- C. The standards the designee must use in deciding whether to issue the CoA.

§15.8.3. Scope of review

The Review Board or, on appeal, the County Board shall not consider interior arrangement and shall take no action under this subsection except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features in the historic district which would be incongruous with the historical aspects of the district.

§15.8.4. Setback modification permitted

As part of the certificate of appropriateness review process, the Review Board may find that the proposed setback for buildings and structures is consistent with the existing streetscape and historic district guidelines even though such setback is inconsistent with the requirements of the underlying zoning district. When the Review Board makes this finding, the zoning administrator shall grant a modification to the underlying setbacks, unless such modification violates vision clearance requirements from §3.2.6.A.4.



§15.8.5. Time limitations

Any CoA issued pursuant to the sections shall expire 12 months from the date of approval if the authorized work has not commenced if a building permit is not required. If a building permit is required, it must be diligently pursued by the applicant after the CoA approval.

§15.8.6. Application requirements

All applications for certificates of appropriateness shall be submitted on forms specified by the county. When an initial determination has been made that the application is complete, then the application shall be forwarded to the Review Board. The Review Board may request additional information if needed.

§15.8.7. Advertising

Prior to action on a CoA, the Review Board or, on appeal to the County Board as provided by subsection C, below, the County Board shall give the applicant and other persons an opportunity to be heard after the following notice has been given:

- A. A notice of the public hearing shall be published 10 days prior to the hearing date in a newspaper having general circulation in the county;
- B. Notice shall be sent by first class mail to owner(s) of the property which will be the subject of the hearing and owner(s) of abutting property and property immediately across the street from the affected property, including any property which lies in an adjoining jurisdiction, at least 10 days prior to the public hearing;
- C. The civic association representing the neighborhood where the affected property is located shall be notified in writing at least seven days prior to the public hearing;
- D. One placard containing the public hearing notice shall be posted on the affected property and no fewer than four placards shall be posted in the surrounding neighborhood at least seven days prior to the public hearing.
- E. If any setback modifications are requested as part of the CoA, that information should be included in all notices.

§15.8.8. Signs requiring a CoA

For all signs for which a Certificate of Appropriateness is required, the Historical Affairs and Landmark Review Board shall approve a Certificate of Appropriateness for a sign or modification of a sign in an historic district only if it finds that:

- A. The size, scale and design of the sign shall be compatible with the size, scale and design of the property, building or site upon which it is to be located;
- B. The materials used in the sign shall be compatible with the period and style of the property, building or site;
- C. The lighting of the sign shall be consistent with the period and style of the property, building, site or district, as applicable;
- D. The location of the sign shall not obscure any significant architectural features of the building or site; and
- E. Installation of the sign shall not irreparably damage any cornice, ornament or similar architectural detail and shall be the least damaging method feasible for the property, building or site.

§15.8.9. Design guidelines

- A. The Review Board shall utilize the historic district design guidelines relevant to the specific historic district under consideration in their review of any application for alterations to an exterior feature and make a decision in accordance therewith. The design guidelines will guide and inform the decisions of the Review Board with regard to these exterior alterations. The design guidelines are for the benefit of the applicant as well as the Review Board. Historic district design guidelines shall be adopted and amended by the County Board, with such minor administrative amendments or updates as may be approved by the Review Board.
- B. The design guidelines shall also describe which modifications, if any, can be administratively approved by its designee, and shall provide specific standards for such approval.
- C. All design guidelines established, adopted, or amended by either the County Board or the Review Board on or before May 22, 2010 shall be in full force and effect, as though adopted by the County Board in a manner consistent with this zoning ordinance, until such time as the County Board, or the Review Board in the case of minor administrative amendments or updates, acts to amend them.
- D. Design guidelines shall not be created, amended, or updated except after a public hearing.
- E. For districts without approved design guidelines, The Secretary of the Interior's Standards for Rehabilitation, The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes, or The Secretary of the Interior's Standards and Guidelines for Archaeology Documentation shall be used to guide the CoA review process as amended.

§15.8.10. Appeals

- A. If the Review Board makes the findings called for in §15.8.2, or, after an appeal as provided in §15.8.9.C, the County Board determines that the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall forthwith approve such application and shall issue to the applicant a CoA.
- B. If the Review Board or, after an appeal as provided in §15.8.9.C, the County Board determines that a CoA should not be issued, it shall forthwith notify the applicant of such determination, furnishing him a copy of the reasons therefore and the recommendations, if any, as appearing in the records of the Review Board.
- C. Any person or persons jointly or severally aggrieved by any final decision of the Review Board, may, within 30 days after the final decision, have the right of appeal to the County Board of Arlington County by filing a petition which shall stay the decision of the Review Board pending the outcome of the appeal, provided that such a petition shall not stay a decision which denies the right to raze or demolish a historic landmark, building or structure. The County Board may reverse or modify, in whole or in part, any decision it finds upon review to be contrary to law or that is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Review Board. The County Board may also reverse or modify the decision of the Review Board where the decision is based upon elements of the design guidelines that were amended solely by the Review Board after May 22, 2010 and the County Board finds that those elements are not consistent with the

purpose and intent of the County Board adopted design guidelines, or of the historic district designation.

- D. Any person or persons jointly or severally aggrieved by any final decision of the County Board may within 30 days after the final decision have the right to appeal to the circuit court of Arlington County by filing a petition at law which shall stay the decision of the County Board pending the outcome of the appeal, provided that such a petition shall not stay a decision which denies the right to raze or demolish a historic building or structure within a historic district. The circuit court may reverse or modify, in whole or in part, any decision it finds upon review to be contrary to law or that is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the board.

§15.8.11. Right to demolish or raze

- A. In addition to the right of appeal, the property owner shall have a right to demolish or raze such building or structure in a historic district provided that:
 1. The owner has applied to the Review Board for such right and on appeal been denied such right by the County Board;
 2. The owner has, for the period of time set forth below at a price reasonably related to fair market value, made a bona fide offer to sell such building or structure and the land pertaining to it to the county or to any person, firm, corporation, government or government agency, political subdivision or agency, which give reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining to it; and
 3. No bona fide contract, binding on all parties to it, shall have been executed for the sale of any such landmark, building or structure and the land pertaining to it, prior to the expiration of the period of time set forth below.
- B. No such offer to sell may be made more than one year after a final decision of the County Board but no appeal to the circuit court from a decision of the County Board shall stay or otherwise impair the right of such owner to offer for sale. After one year has passed from any such final decision (which has not been appealed or has been affirmed) of the County Board, the owner may renew his request to the Review Board for approval of a razing or demolition of the historic building or structure.

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

Offering Price	Months
Less than \$25,000	3
\$25,000 or more and less than \$40,000	4
\$40,000 or more and less than \$55,000	5
\$55,000 or more and less than \$75,000	6
\$75,000 or more and less than \$90,000	7
\$90,000 or more	12

- D. Before making a bona fide offer to sell as provided for in this section, an owner shall first file a statement with the county manager. The statement shall identify the property, state the offering price, reference the property’s Multiple Listing Service (MLS) identification number, or similar identifying information from a listing in an equivalent, comparable, real estate database system, the date the offer of sale is to begin and name and address of the listing real estate agent, if any. The statement shall provide assurances that the building

or structure shall be maintained during the period of offering for sale. No time period set forth in the time schedule contained in §15.8.10.C shall begin to run until said statement has been filed. Within five days of receipt of a statement, copies of the statement shall be delivered to the Review Board members. If at any time the offering price of the property increases, the owner shall re-file the statement with the county manager.

- E. During this period, the county may negotiate with the owner or person in charge of the historic district and with other parties in an effort to find a means of preserving the property.
- F. During this period, or at any time prior thereto following notice to the owner and where such action is reasonably necessary or appropriate for the continued preservation of the property, the County Board may enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein.

§15.8.12. Question as to price

The fact that a building or structure has been offered for sale at a price reasonably related to fair market value (FMV) may be questioned, provided that a petition in writing is filed with the county manager within 15 days after the offer of sale has begun. The petition may be filed by the Review Board, or a petition in writing signed by at least five persons owning real estate in the vicinity of the property offered for sale. Alternatively, the county manager may do the same within the same time frame. The county manager retains the discretion to accept or reject the aforementioned petitions as grounds for initiating an appraisal process. Within 15 business days after the filing of a petition questioning the reasonableness of the sale price offered, the county and the owner shall each give written notice to the other setting forth the name and address of an appraiser licensed to perform appraisals in the Commonwealth of Virginia (appraiser), selected by such party, who has agreed to act in such capacity to determine whether the offering price of the property is reasonably related to the FMV of the property. If either party shall fail to select an appraiser aforesaid, and such failure shall continue for a period of 10 business days after receipt of written notice from the other party, then the FMV shall be determined by the appraiser selected by the other party. When the appraiser(s) have been selected, then each appraiser shall thereupon independently make his/her determination of whether the offering price of the property is reasonably related to the FMV of the property within 21 days. If the two appraisers' disagree significantly as to their determinations of the FMV of the property, then the two appraisers shall appoint a third appraiser within 10 business days after the second of the two determinations described above has been rendered. The third appraiser shall independently make his/her determination of whether the offering price of the property is reasonably related to the FMV of the property within 30 days after his/her appointment. Each party shall pay for the cost of its appraiser and one-half of the cost of the third appraiser. The opinion of any two of the three appraisers shall be final and binding. In the event the opinion is to the effect that the offer to sell the building or structure is at a price reasonably related to its FMV, the owner may continue to offer the property for sale pursuant to §15.8.10 through §15.8.10.C. In the event the opinion is to the effect that the offer to sell the building or structure is not at a price reasonably related to its FMV, the date of the offer to sell first established pursuant to §15.8.9.B shall be void and the owner, if he wishes to take advantage of the right provided in said section, must re-file the notice provided for above. Notwithstanding an adverse opinion by the appraisers if an owner has entered into a binding contract as provided in §15.8.10.A.3 prior to the date the appraisers

have filed their report with the county manager, the price shall be deemed reasonably related to the FMV, for the purposes of this contract.