

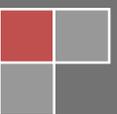
2017

# Zoning Ordinance

Arlington County, Virginia



Adopted June 17, 2017



## §11.3. Historic Preservation Overlay District

### §11.3.1. Purpose

The purpose of these regulations is to promote the health, safety, 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, architectural and archaeological significance through the establishment of historic districts, and through the protection of other significant properties. To achieve these general purposes, the county 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 Arlington County, the Commonwealth of Virginia, or the United States of America:

- A. Promote local historic preservation efforts through the identification and protection of historic resources throughout the county, and through the designation of local historic districts;
- B. Assure that, within Arlington County's historic districts, new structures, buildings, additions, landscaping and related elements will be in harmony with their setting and environs;
- C. Promote an enhanced quality of life within the county.
- D. Maintain and improve property values by providing incentives for the upkeep, rehabilitation and restoration of older structures and buildings 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 county's historic, cultural and architectural resources and institutions within their settings;
- E. Encourage nomination of historic properties to the National Register of Historic Places and the Virginia Landmarks Register; and
- F. Promote tourism and enhance business and industry, through the protection of, and education about, historic, cultural and archaeological resources.

### §11.3.2. Historical Affairs and Landmark Review Board

#### A. Establishment and composition

##### 1. Establishment

There is hereby created and established an historical affairs and landmark Review Board which shall consist of no more than 15 members who are residents of the county who have an interest, competence, or knowledge of historic preservation and who shall be appointed by the County Board. The historical affairs and landmark Review Board shall be the Architectural Review Board provided by Section 15.2-503.2 of the Code of Virginia. The Historical Affairs and Landmark Review Board shall hereafter be referred to as "the Review Board."

##### 2. Composition

The County Board shall select the members of the Review Board that meet the criteria set forth by the Virginia Department of Historic Resources Certified Local Government (CLG) program. The County Board may consider including members from appropriate community groups (i.e., the Arlington Historical Society).

**B. Terms of office**

1. The members of the Review Board shall serve overlapping terms of four years. Initially, four members shall be appointed for a term of one year, four members shall be appointed for a term of two years, four members shall be appointed for a term of three years, and three members shall be appointed for a term of four years. Thereafter, all appointments shall be made for a term of four years. Where the County Board appoints fewer than 15 members, the number of appointees with each term length shall be reduced proportionally.
2. Members may be reappointed for consecutive terms.
3. If a member representing a profession designated as a requirement by the CLG program ceases to be a member of that profession, then that member will no longer be a member of the Review Board. If a vacancy occurs for any reason, including those noted above, then a new appointment shall be made by the County Board for the remainder of the unexpired term.

**C. Organization; officers; rules; meetings**

1. The Review Board shall annually elect from its membership a chairman and vice-chairman, at the first meeting held on or after December 1st in each calendar year, for a one year term of office. In the event such a person is unable to serve for the full term for any reason, a replacement shall be elected to serve for the remainder of the term.
2. The Review Board may establish any rules necessary for the orderly conduct of its business.
3. All meetings of the Review Board shall be kept as public record to the extent required by the Code of Virginia.

**D. Responsibilities**

The function of the Review Board shall include, but not necessarily be limited to, the following activities:

**1. Recommendations**

- (a) Recommend additional surveys of potential historic districts, and recommend properties for designation as local historic districts, including recommending Historic District Design Guidelines for such districts.
- (b) Act in an advisory role on historic preservation and historical affairs to the County Board, County Board appointed commissions and boards, and other groups.

**2. Final decisions**

- (a) Approve, deny, or approve with conditions certificate of appropriateness applications in accordance with the provisions of §15.7.
- (b) Make such minor administrative amendments to the design guidelines as are necessary for the orderly review of CoA applications in designated historic districts. Any administrative amendment to existing design guidelines which comply with the spirit of this zoning ordinance, and the intent of the County Board in its approval of the underlying historic district design guidelines, may be approved by the HALRB. Those amendments may include but would not be restricted to the following; language on new building materials, construction methods and technologies,

updates to existing chapters and appendixes, revisions meant to take into account new county policies and changes to other sections of Code.

- (c) Organize, develop, and execute educational programs focusing on Arlington’s heritage and local historic preservation efforts.

#### **E. Other**

1. Produce an annual report of the Review Board’s activities.
2. Prepare, circulate, and approve text for local historic markers.
3. Provide the County Board with assistance in the naming of public facilities and advice on other matters of historical value.
4. Undertake such other responsibilities as the County Board may direct to protect historic properties.

#### **§11.3.3. Certificate of appropriateness**

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See §15.7, for the certificate of appropriateness procedure.

#### **§11.3.4. Establishment of Historic Districts**

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The Historic District (Overlay) is hereby established as an overlay district. Additionally:

- A. Nominations for inclusion within a historic district shall be made by referral to the Review Board, or, for properties owned or ground-leased by Arlington Public Schools (APS), to the County Board. The Review Board, or for properties owned or ground-leased by Arlington Public Schools (APS), to the County Board shall have reason to believe that at least two of the 11 qualifying criteria are present prior to initiating its study of the nomination. The County Board shall maintain exclusive authority over the designation process of historic districts for properties owned or ground-leased by Arlington Public Schools.
  1. The owner of any property being considered for inclusion in a historic district shall be informed of the nomination within 10 business days of the receipt of a request for consideration via first class mail.
  2. The Review Board, or for properties owned or ground-leased by APS, the County Board, shall base its decision upon studies, documentation and/or research, and shall prepare or cause to be prepared, a report on the historic significance of the proposed historic district.
  3. The Review Board, or for properties owned or ground-leased by APS, the County Board, shall hold a public hearing to consider the historic district status after due notice has been given to the owners of all properties to be included in such district(s), and the civic association which includes the proposed district within its boundaries.
  4. The Review Board, or for properties owned or ground-leased by APS, the County Board, shall not recommend designation unless it finds that at least two of the criteria, below, have been met. The Review Board, or for properties owned or ground-leased by APS, the County Board, retains the authority to not recommend designation even if the property does meet at least two of the following criteria:
    - (a) The property is listed or is eligible for inclusion in the National Register of Historic Places;

- (b) The property has character, interest, or value as part of the development, heritage, or cultural characteristics of the county, state, or nation;
  - (c) The property was the site of a significant local, state, or national event;
  - (d) The property is associated with a person or persons who significantly contributed to the development of the county, state, or nation;
  - (e) The property embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, or method of construction;
  - (f) The property is identified as the work of a master builder, architect, or landscape architect;
  - (g) The property embodies elements of design, detailing, materials, or craftsmanship that render it structurally or architecturally significant;
  - (h) The property has a distinctive location, or singular physical characteristics that make it an established or familiar visual feature;
  - (i) The property is a particularly fine or unique example of a utilitarian structure representing a period or style in the commercial, industrial, or agricultural development of the county, with a high level of historic integrity or architectural significance;
  - (j) The property has the potential to yield information important to the prehistory or history of the county, state, or nation; or
  - (k) The property is suitable for preservation or restoration.
5. If the Review Board recommends designation, then written copies of the Review Board's recommendation, including determinations of historical significance, and recommendations concerning the area to be included in the proposed historic district, shall be transmitted for review to the County Board.
6. If the Review Board recommends designation of a historic district, it will forward, with such recommendation, proposed historic district design guidelines for the district to be considered for adoption by the County Board. Provided, however, that the Review Board may recommend that the County Board consider designation of a historic district without proposed historic district design guidelines upon a finding that taking time to develop such guidelines would present a substantial risk that historic resources proposed to be preserved by the designation would be damaged or destroyed. Where historic district design guidelines are not proposed with a recommendation for designation, the Review Board shall recommend historic district design guidelines for approval by the County Board at the earliest practicable date after designation.
- (a) In the event that the Review Board does not recommend designation, the County Board, upon its own motion, may initiate the designation review process.
- B. In accordance with the normal zoning approval procedure as specified in the Code of Virginia, the County Board shall act on nominations regarding properties owned or ground-leased by APS, and act on recommendations from the Review Board as to nominations regarding all other properties. The designation of such a historic district shall be shown as an overlay on the map referred to in §2.1.

- C. Upon adoption of the ordinance, the owners and occupants of each designated historic district shall be given written notification of such designation by the County Board.

#### **§11.3.5. General maintenance; ordinary maintenance allowed; public safety**

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- A. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a historic district which does not involve a change in design, material, or outer appearance thereof.
- B. Nothing in this section shall prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the building official shall certify is required to maintain and uphold public safety because of an unsafe or dangerous condition that cannot otherwise be remedied and that is not the result, either directly or indirectly, of the owner's negligence.
- C. Neither the owner of nor the person in charge of a structure within a historic district shall permit such structure 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 the district as a whole or in part, 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 deterioration of any feature so as to create or permit the creation of any hazardous or unsafe, conditions or conditions.

#### **§11.3.6. Acquisition of historic easements**

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The county may acquire, by purchase or donation or eminent domain, historic easements in any area within its jurisdiction wherever and to the extent that the County Board determines that the acquisition will be in the public interest and as permitted by Virginia Law.

#### **§11.3.7. Transfer of development rights (TDRS)**

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The County Board may seek findings and recommendations from the Review Board on transfer of development rights applications per §15.5.7.B.

#### **§11.3.8. Federal grants**

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The County Board may, wherever practicable, make use of federal grants as provided in the National Historic Preservation Act of 1966.

#### **§11.3.9. Regulations**

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The County Board may from time to time promulgate, amend and rescind such regulations as it may deem necessary to effectuate the purposes of these regulations.

#### **§11.3.10. Penalties**

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Penalties shall be as provided in Article 17.

## §15.7. Certificate of Appropriateness (CoA)

### §15.7.1. Applicability

- A. Unless otherwise provided by adopted historic district design guidelines, 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 the provisions of this §15.7 as being architecturally or historically compatible with the historic district, buildings, or structures therein.
- B. The CoA must be issued 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.

### §15.7.2. Required findings for administrative approval

The Review Board may authorize its designee to issue certificates of appropriateness that meet certain standards. Notwithstanding provisions in this §15.7 to the contrary, the designee may administratively issue a CoA where the historic district design guidelines or the Review Board has specified:

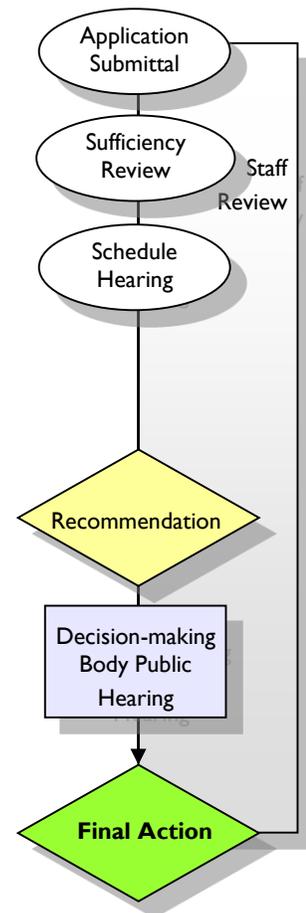
- A. Which properties are eligible for designee action;
- B. The specific category of modifications for which the designee may grant a CoA; and
- C. The standards the designee must use in deciding whether to issue the CoA.

### §15.7.3. Scope of review

The Review Board or the County Board as applicable shall not consider interior arrangement as part of CoA review, and no action shall be taken 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.

### §15.7.4. 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 design 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 visual clearance requirements from §3.2.6.A.4.



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**§15.7.5. Time limitations**

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Any CoA issued pursuant to this §15.7 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.

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**§15.7.6. Application requirements**

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All applications for CoAs 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, or County Board, as applicable. Additional information may be requested as needed in order to complete the review.

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**§15.7.7. Advertising**

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Prior to action on a CoA, the applicant and other persons shall be given an opportunity to be heard at a public hearing after the following notices have 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; and
- 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. If any setback modifications are requested as part of the CoA, that information should be included in all notices.

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**§15.7.8. Signs requiring a CoA**

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For all signs for which a CoA is required, the Review Board, or the County Board, as applicable, shall approve a CoA 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.

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**§15.7.9. Historic district design guidelines**

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- A. Historic district design guidelines shall be adopted and amended by the County Board.

## §15.7.10 APPEALS

- B. The Review Board may approve minor updates to historic district design guidelines, except for those APS-owned or ground-leased properties designated after January 1, 2016. Historic district design guidelines shall not be created, amended, or updated except after a public hearing.
- C. The historic district design guidelines shall also describe which modifications, if any, can be administratively approved, and shall provide specific standards for such approval (see §15.7.2 for requirements).
- D. The Review Board or the County Board in accordance with §15.7.13 shall utilize the historic district design guidelines relevant to the specific historic district under consideration in its review of any CoA and make a decision in accordance therewith. The historic district design guidelines will guide and inform decisions with regard to CoAs.
- E. All historic district 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.
- F. For districts without approved historic district 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.

**§15.7.10. Appeals**

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- A. If the Review Board makes the findings called for in §15.7.2, or, after an appeal as provided in §15.7.10.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 §15.7.10.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 historic district 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 historic district 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 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 County Board.

**§15.7.11. 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 for a CoA 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.
- 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 §15.7.11.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 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.

### §15.7.12. 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 §15.7.11 through §15.7.11.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 §15.7.10.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 §15.7.11.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.

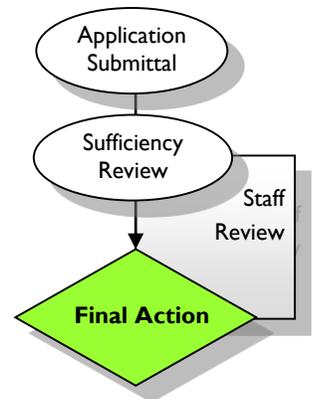
**§15.7.13. Arlington Public Schools historic districts**

- A. In historic districts designated after January 1, 2016, where the property is owned or ground-leased by Arlington Public Schools (APS), the County Board shall be responsible for reviewing and making decisions regarding CoA applications as provided in this §15.7.13. The County Board shall render its decision after considering comments forwarded by the Review Board, if any, regarding the architectural and historical appropriateness of the proposed alterations.
- B. When reviewing CoA applications for property owned or ground-leased by APS, the County Board shall evaluate such applications in the context of the applicable historic district design guidelines.
- C. Historic district design guidelines referred to in §15.7.13.A shall specify those modifications and additions which shall require a CoA.
- D. In rendering its determination for a denial of a CoA, the County Board shall notify the applicant of such determination, furnishing a copy of the reasons therefore and the recommendations, if any, as appearing in the records.

**§15.8. Sign Permits**

**§15.8.1. Applicability**

- A. A sign permit shall be obtained from the zoning administrator before any sign requiring a permit is erected, placed or installed (see §13.5, §13.6, §13.7, §13.9, §13.11 and §13.17 to determine which signs require permits).
- B. An application for a sign permit shall be signed by the applicant or an officer or member thereof, and shall include evidence of consent to the application by the owner of the building or property on which the sign is proposed for installation; and if the project is the subject of a comprehensive sign plan, the owner of the project or property manager responsible for the project.



**§15.8.2. Application**

- A. Every application for a sign permit shall be accompanied by plans showing the area of the sign, the size, and design proposed; the method of lighting, if any, showing that lighting mechanisms are hidden to the extent practicable; and the exact location proposed for the sign. If the sign will be placed on premises for which there is an approved comprehensive sign plan, the application shall refer to the Plan and identify how the proposed sign conforms with the Plan.
- B. An application for a sign permit for a sign placed above a height of 40 feet that will be lighted shall include a certification by an engineer or other qualified professional licensed or practicing in Virginia that the installed sign will conform with the luminance standards and other limitations on illumination set forth in §13.12.2. If a dimmed setting is used to meet the compliance limit, the dimmed setting meeting the compliance limit shall be measured, recorded and reported to the County prior to installation. The setting of the dimming controller itself may be reconfirmed after installation.