

OFFICIAL TEXT

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COMPREHENSIVE ZONING AND SUBDIVISION TEXT AMENDMENTS

CHAPTER 29. SUBDIVISIONS.

ARTICLE II. Design Standards and Improvements.

Sec. 29-40. Lots - Generally.

- (a) ...
- (b) ...
- (c) ...

(d) All residential lots shall have a minimum frontage of fifty ~~five-(55)~~ (50) feet at the street right-of-way except as follows:

(1) Lots fronting on the turnaround portion of a cul-de-sac shall have a minimum of twenty foot frontage at the street right-of-way and an average width of at least ~~fifty-five~~ (55) fifty (50) feet.

(2) Single-family attached lots shall have a minimum frontage of twenty (20) feet at the street right-of-way. Townhouse lots shall have a minimum frontage of sixteen (16) feet at the street right-of-way.

(3) Corner lots shall have such additional frontage as is required to accommodate the additional side yard setbacks set forth in the zoning ordinance.

- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...

CHAPTER 34. ZONING.

ARTICLE I. IN GENERAL.

Sec. 34-4. Definitions.

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Kennel: Any premises in which or upon which more than five (5) dogs or more than five (5) cats over six (6) months of age are kept for any purpose.

Sec. 34-9. Violations - Enumerated.

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Sec. 34-10. Same Violations - Criminal Penalty.

Any person who willfully engages in any conduct made unlawful by Section 34-9 shall, upon conviction, be fined not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each such offense. Each day such violation continues shall constitute a separate offense.

Sec. 34-11. Same Violations - Court order to correct; civil penalty.

(a) In connection with a proceeding to impose the fine specified by section 34-10 or subsection (b) herein, or upon the separate petition of the city through an appropriate official, the court may order a person determined to have engaged in conduct declared unlawful by section 34-9 to conform to the requirements of this chapter or any authorized regulations and to the provisions, requirements, conditions or standards contained in any required plan, permit, certificate, variance or approval issued thereunder.

(b) Any person who violates one of the following specified sections of the zoning ordinance shall be liable for a civil penalty in the amount of \$100.00:

- (i) Section 34-8(a)(1). Use, height, area, yards and alterations.
- (ii) Section 34-573. Maintenance and repair required.
- (iii) Section 34-779. Standards for temporary and portable signs.
- (iv) Section 34-780(1). Sign Maintenance.
- (v) Section 34-974. Visibility at intersections in residential zones.
- (vi) Section 34-1008. Discontinuance of nonconforming use.
- (vii) Section 34-9(3). Conduct declared unlawful.

(c) Notwithstanding the designation of sections in subsection (b) above, civil penalties shall not be imposed for:

- (i) Enforcement of the Uniform Statewide Building Code;
- (ii) Activities related to land development or activities related to the construction or repair of buildings and other structures;
- (iii) Violation of an erosion and sediment control ordinance;
- (iv) Violation of any zoning provision relating to the posting of signs on public property or public rights-of-way; or
- (v) Violation of any zoning provision resulting in injury to any person or persons.

(d) Any person summonsed for a violation of any of the sections listed above may make an appearance in person or in writing by mail to the City Treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial on any or all of the alleged violations, and that a signature to an admission of liability will have the same force and effect as a judgment of court.

(e) If a person charged with a violation does not waive trial and admit liability, the violation shall be tried in the Charlottesville General District Court in the same manner and with the same right of appeal as provided for by law. It shall be the burden of the City to show the liability of the violator by a preponderance of the evidence.

(f) An admission of liability or finding shall not be a criminal conviction for any purpose. The designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor. Nothing in this section shall preclude action by the zoning administrator under Virginia Code section 15.1-491(d) or by the governing body under Virginia Code section 15.1-499.

(g) Each day during which the violation is found to have existed shall constitute a separate offense; provided, that in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00.

Sec. 34-14. Division of City into zoning districts; enumeration of districts.

For the purposes enumerated in Section 34-2, the City is divided into zoning districts. The zoning districts shall be known as:

R-1 Residential District
R-1A Residential District
R-2 Residential District
R-3 Multiple Dwelling District
R-HD Residential Higher Density Overlay District
R MHP Residential Home Park Residential Overlay District
R MHS Mobile Home Subdivision Overlay District
PUD Planned Unit Development Residential Overlay District
B-1 Business District
B-2 Business District
B-3 Business District
B-4 Business District
B-5 Business District
B-6 Business District
M-1 Restricted Industrial District
M-2 General Industrial District
FP Flood Plain and Conservation Overlay District
~~ABE and DAE~~ Historic Preservation and Architectural Design
Control Overlay Districts
PRK Off-Street Parking Exempt Area Overlay District
ECH Entrance Corridor Historic Overlay District

Sec. 34-15. District Map.

(a) The boundaries of the zoning districts are shown upon a map made a part of this chapter, and designated as "zoning district map" dated May 20, 1991.

**ARTICLE II. ADMINISTRATION
DIVISION 2. PERMITS AND CERTIFICATES**

Sec. 34-70. Certificates of Occupancy.

(a) No person shall use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted, altered, or enlarged, wholly or partly, in its use or structure, until a certificate of occupancy has been issued by the building official after approval for conformity with zoning by the zoning administrator. A change of use of any building shall also require a certificate of occupancy. The conduct of a home occupation, the office of a resident member of a recognized profession, and the office of a resident, all of which may be allowed according to Article IV of this chapter in R-1 residential districts shall all require certificates of occupancy and shall be subject to all licensing requirements as set forth in this Code.

ARTICLE III. BOARD OF ZONING APPEALS

Sec. 34-108. Limitation on grant of special exceptions.

Special exceptions shall be limited to the following: Permit the occupancy of a single detached residence in an R-1, R-1A or R-2 Residential District by more than two (2) housekeeping units; provided, that such residence shall have been in existence on January 21, 1932; provided further, that such multiple occupancy shall not be deemed to alter the character of the neighborhood in which such residence is located; and provided further, that the outside shape of the residence shall not be altered in any material particular.

ARTICLE IV. R-1 RESIDENTIAL DISTRICT.

Sec. 34-141. Yard Regulations.

The following requirements shall be met in the R-1 District except as provided in article III of this chapter.

(1) ...

(2) Side Yard. Side yards shall conform to the following:

(a) There shall be a side yard on each side of single family detached dwellings having a width of not less than (10) feet.

(b) There shall be a side yard on each side of a nonresidential building or structure having a width of not less than fifty (50) feet.

(c) A lot occupied by either of the above-referenced building types shall have a side yard along the street side of a corner lot of not less than twenty (20) feet.

(d) Any building which was in compliance with applicable side yard requirements immediately prior to being rezoned to R-1 Residential on June 3, 1991, shall be considered in compliance with the side yard requirements of this section so long as such side yards are not reduced subsequent to that date.

ARTICLE IV-A. R-1A RESIDENTIAL DISTRICT

DIVISION I. APPLICABILITY

Sec. 34-144. Purpose and Intent.

The R-1A Residential District is established to provide and protect quiet residential areas of relatively low density. Permitted uses are basically limited to single family detached dwellings. Certain additional uses may be allowed as long as the character of the district is not altered by levels of traffic, vehicular parking, lighting noise and visual displays which are not compatible with relatively low density residential use.

Creation of the R-1A Residential District is hereby found to be required by reason of public convenience, general welfare and good zoning practice. The more specific zoning purposes for which this new zone is created include, but are not limited to, the following:

(a) Stability. To limit density, to control and enhance orderly growth, development, redevelopment, and revitalization of those neighborhoods which are being used predominantly as single family areas, thereby providing a stabilizing influence for such neighborhoods.

(b) Balance. To ensure a greater balance of single family neighborhoods throughout the entire City.

(c) Variety. To provide more than one type of single family zone thereby enhancing the variety of housing opportunities available.

DIVISION 2. USE REGULATIONS

Sec. 34-145. Compliance with Division and Other Provisions of Chapter.

A building or premises shall be used only for the purposes set forth in this division. All buildings and uses permitted in the R-1A Residential District, with the exception of single family detached dwellings and two family dwellings shall be subject to the site plan requirements of Article XXI of this chapter. All buildings and uses permitted in the R-1A Residential District shall be subject to the off-street parking requirements of Article XIX of this chapter.

Sec. 34-146. Permitted uses - By right.

The following uses shall be permitted by right in the R-1A District:

(1) Any use permitted by right in the R-1 Residential District, subject to the height, yard and area regulations set forth below. However, any two-family or single family attached (up to two) dwelling for which a city building permit has been issued and was at least twenty percent constructed on the site prior to June 3, 1991 shall be considered a conforming use.

(2) Accessory Apartment. Any single family detached dwelling (hereinafter "the principal structure"), may contain an accessory dwelling unit (hereinafter "accessory apartment") provided that it meets all of the following conditions:

(a) The principal structure contains, as of June 3, 1991, at least 1,600 square feet of gross floor area as defined in the Virginia Statewide Building Code, and is located on a lot of at least 6,000 square feet;

(b) A separate entrance to the accessory apartment is not located on the exterior front of the house;

(c) The accessory apartment is contained within the principal structure and the exterior walls of said principal structure may not be expanded or enlarged to accommodate the accessory unit;

(d) The total floor area of the accessory apartment does not exceed 400 square feet, and the area occupied for sleeping purposes within the apartment is less than 150 square feet, and is occupied by no more than two persons;

(e) There are at least two off-street parking spaces on the property. Spaces may be located within the required front, side and rear yard setbacks; provided, that no more than twenty-five (25) percent or eighteen (18) feet of the front yard street frontage, whichever is greater, shall be improved for parking; and,

(f) One of the two dwelling units must be owner occupied.

Sec. 34-147. Same - With special use permit.

The following uses shall be permitted by special permit in the R-1A District:

(1) Any uses permitted by special permit in the R-1 Residential District subject to the height, yard and area regulations.

(2) Two-family dwellings shall be permitted in structures which contain, as of June 3, 1991, at least 2,400 square feet of gross floor area as defined in the Virginia State-wide Building Code, and which are located on a lot of at least 7,200 square feet, subject to the following conditions:

(a) Separate entrances to the two units are not located on the exterior front of the house;

(b) The structure may not be expanded or enlarged to accommodate the two dwelling units;

(c) There are at least two off-street parking spaces on the property. Spaces may be located within the required front, side and rear yard setbacks; provided, that no more than twenty-five (25) percent or eighteen (18) feet of the front yard street frontage, whichever is greater, shall be improved for parking; and,

(d) One of the two dwelling units must be owner occupied.

DIVISION 3. HEIGHT, YARD AND AREA REGULATIONS.

Sec. 34-148. Height Regulations.

The height regulations for the R-1A Residential District shall be the same as required in the R-1 Residential District.

Sec. 34-149. Yard Regulations.

The following requirements shall be met, except as provided in article XXIII of this chapter entitled Exceptions and Modifications:

(1) Front yard. The front yard requirement shall be same as R-1 Residential District.

(2) Side Yard:

(a) A lot occupied by a single family detached dwelling shall have a side yard of not less than five (5) feet on each side of the building.

(b) A lot occupied by a two-family dwelling shall have a side yard of not less than ten (10) feet on each side of the building.

(c) A lot occupied by a nonresidential building or structure shall have a side yard on each side of not less than fifty (50) feet, except as provided for in (4) below.

(d) A lot occupied by any of the above referenced building types shall have a side yard along the street side of a corner lot of not less than twenty (20) feet.

(3) Rear Yard:

(a) For all residential dwellings, there shall be a rear yard having a depth of not less than twenty-five (25) feet.

(b) For nonresidential buildings and structures, there shall be a rear yard having a depth of not less than fifty (50) feet.

(4) General. Radio, television, telephone and electric transmission towers shall have a yard on all sides equal to the height of the installed tower; except, that this yard regulation shall not apply to the transmission towers for amateur radio operations.

Sec. 34-150. Area Regulations.

(a) A lot to be occupied by a single family detached dwelling shall contain at least six thousand square feet.

(b) A lot to be occupied by a two-family dwelling shall contain at least 7,200 square feet.

(c) Cemeteries shall have a minimum site area of twenty acres.

Sec. 34-151. Severability.

If any part, section, subsection, sentence, clause or phrase of this article is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article.

ARTICLE XIII. B-3 BUSINESS DISTRICT

**Sec. 34-439. Permitted Uses - With special use permit.
District.**

The following uses may be permitted in the B-3 Business District with a special use permit:

- (1) ...
- (2) ...
- (3) ...
- (4) ...
- (5) ...
- (6) ...
- (7) ...
- (8) ...
- (9) ...
- (10) ...
- (11) Kennels.

ARTICLE XIV. B-4 BUSINESS DISTRICT

Sec. 34-461. Purposes and Intent.

The purpose of the B-4 Business District is to provide a special district for the Downtown area which will allow and encourage a harmonious mixing of a variety of major commercial, high density residential, office and institutional uses.

Sec. 34-462. Compliance with article and other provisions of chapter.

A building or premises in the B-4 District shall be used only for the following purposes set forth in this article. All buildings and uses permitted in the B-4 District, with the exception of single family detached dwellings, single family attached dwellings not exceeding two units and two family dwellings, shall be subject to the off-street parking and site plan review requirements of Articles XIX and XXI, respectively.

Sec. 34-463. Permitted uses - By right.

The following uses shall be permitted by right in the B-4 District:

- (1) Any use permitted by right in the B-3 Business District.
- (2) Warehouses and indoor storage areas when either is used in connection with retail or wholesale businesses operating on the same premises.
- (3) Printing and publishing establishments.

Sec. 34-464. Same - With special use permit.

The following uses may be permitted with a special use permit in the B-4 District:

- (1) Residential high density up to one hundred twenty (120) dwelling units per acre subject to regulations as set forth in Article VII.
- (2) Public utility facilities.
- (3) Dry cleaning establishments of moderate or high hazard, as defined by the Virginia Uniform Statewide Building Code.
- (4) Animal shelters, boarding or breeding facilities with outside runs or pens.
- (5) Animal hospitals without outside runs or pens.
- (6) Warehouses not used in connection with retail or wholesale businesses on the same premises.
- (7) Manufacturing and processing establishments of a craft nature.

Sec. 34-465. Prohibited uses.

The following uses are prohibited in the B-4 District:

- (1) Amusement arcades.

Sec. 34-466. Height and Floor Area Regulations.

The building height in the B-4 Business District shall be no greater than one hundred one (101) feet above the average street level, except as provided in article XXIII, Exceptions and Modifications, and with the following provisions:

- (1) The minimum required height shall be twenty feet.

~~(1)~~ (2) Within this height limitation, the floor area ratio shall be as follows: for every one square foot of land area, ~~eight and one-half (8.5)~~ four (4.0) square feet of gross building floor area will be allowed by right, exclusive of parking decks.

~~(2) For each off-street parking space provided over the required number of spaces, an additional one hundred (100) square feet of building floor area will be permitted.~~

(3) The maximum allowed floor area ratio achievable through bonus provisions is seven (7.0) square feet of building area per square foot of land area.

(4) The maximum height of the street wall at the property line shall be forty (40) feet. A minimum of 75% of the street wall is required to be on the property line with adjustments allowed to prevent footing encroachments. The Planning Commission may allow a reduction of the street wall down to 50% of the total property length to accommodate topographical conditions.

Sec. 34-466.1. Bonus Provisions for Additional Floor Area.

The following bonus floor area provisions are applicable over the floor area permitted by right in development in the B-4 district:

(1) Moderately Priced Housing On-Site: For every one square foot of moderately priced housing area, affordable to moderate income households as defined by VHDA, add four additional square feet of floor area.

(2) Parking Above Minimum Requirements: For every off-street parking space provided over the minimum requirements, add 300 square feet of floor area. Such parking can be provided within the B-4 District or adjacent B-3 district.

(3) Child Care Space: For every one square foot of child care space in a facility meeting state child care standards, add two square feet of floor area.

(4) Landscaping Above Minimum Requirements: For every one square foot of landscaping above minimum code requirements, add .25 square feet of floor area.

(5) Undergrounding of Wire for Electricity, Telephone, Cable: For every \$500 spent on undergrounding of such utility wires, add 10 square feet of floor area.

Sec. 34-467. Yard and Setback Regulations.

The yard and setback regulations for the B-4 District shall be as follows:

(1) Front yard. No front yard is required.

(2) Side yard. Requirements for side yards shall be the same as required in the B-1 Business District.

(3) Rear yard. Requirements for rear yards shall be the same as required in the B-1 Business District.

(4) Setback after 40 feet of building height. There shall be a 15 foot setback for at least 70% of the street wall above 40 feet of height.

Sec. 34-468. Area Regulations.

Requirements for area use in the B-4 District shall be the same as required in the B-1 Business District, except that there shall be no minimum lot area requirement for residential uses located in existing floor area. As used herein, "existing floor area" means the total floor area in existence as of September, 1958, or on January 1, 1976, whichever is greater.

Sec. 34-469. Additional Development Criteria.

The following additional criteria shall be taken into account when reviewing site plans for development in the B-4 district:

(1) Entrances. Entrances shall have clear definition, weather protection, and adequate lighting.

(2) Mechanical Equipment. Mechanical equipment shall be screened from public right-of-ways.

(3) Trash Storage and Pick-Up. Trash storage and pick-up shall be screened from public right-of-ways and easily accessible.

(4) Direct Access from the Street. There shall be an adequate number of direct access points from the public street.

ARTICLE XIV-A. B-5 BUSINESS DISTRICT

Sec. 34-470. Purpose and Intent.

The purpose of the B-5 Business district is to provide a special district for the West Main Street corridor which must allow for and encourage a harmonious mixture of major commercial, high density residential, office, research and institutional uses with appropriate guidelines for height and bulk regulation.

Sec. 34-471. Compliance with Division and Other Provisions of Chapter.

A building or premises shall be used only for the following purposes. All buildings and uses permitted in the B-5 District with the exception of single family detached dwellings, single family attached dwellings not exceeding two units and two family dwellings, shall be subject to the site plan review requirements of article XXI.

Sec. 34-472. Permitted Uses in B-5 By-Right.

The uses permitted by right in the B-5 Business District shall be the same as the uses permitted by right in the B-3 Business District.

Sec. 34-473. Same - With Special Use Permit.

The uses permitted with a special permit in the B-5 Business District shall be the same as the uses permitted by special permit in the B-3 Business District.

Sec. 34-474. Height and Floor Area Regulations.

The building height shall be no greater than seventy (70) feet above the average street level grade, except as provided for in Article XXIII, Exceptions and Modifications, and with the following provisions:

- (1) The minimum required height shall be twenty (20) feet.
- (2) Within this height limitation, the floor area ratio shall be as follows: for every one square foot of land area, 4.0 square feet of gross building floor area will be allowed, exclusive of parking decks.
- (3) The maximum allowed floor area ratio achievable through bonus provisions is 7.0 square feet of building area per square foot of land area.
- (4) The maximum height of the street wall shall be forty feet. A minimum of 75% of the street wall is required to be within 15 feet of the property line. The Planning Commission may allow a reduction of the street wall down to 50% of the total property length to accommodate topographical conditions.

Sec. 34-475. Bonus Provisions for Additional Floor Area.

The following bonus floor area provisions are applicable over the floor area permitted by right in developments in the B-5 districts:

- (1) Moderately Priced Housing On-Site. For every one square foot of housing area, affordable to moderate income households as defined by VHDA, add four additional square feet of floor area.
- (2) Parking Above Minimum Requirements. For every off-street parking space provided over the minimum requirements, add 300 square feet of floor area. Such parking can be provided within the B-5 District.
- (3) Child Care Space: For every one square foot of child care space in a facility meeting state child care standards, add two square feet of floor area.
- (4) Landscaping Above Minimum Requirements: For every one square foot of landscaping above minimum code requirements, add .25 square feet of floor area.
- (5) Undergrounding of Wire for Electricity, Telephone, Cable: For every \$500 spent on undergrounding of such utility wires, add 10 square feet of floor area.

Sec. 34-476. Yard and Setback Regulations.

The yard and setback regulations for the B-5 District shall be as follows:

- (1) Front yard: No front yard is required, but after 40 feet of building height, there shall be a 25 foot setback for at least 75% of the street wall above 40 feet high.
- (2) Side yard(s): Requirements for side yards shall be the same as required in the B-1 Business District.
- (3) Rear yard: If the rear of the lot adjoins a residential district or use, there shall be a rear yard having a depth of not

less than twenty (20) feet, and an additional setback of twenty-five (25) feet after the first forty (40) feet of the rear wall of the building.

Sec. 34-477. Area Regulations.

Requirements for area shall be the same as required in the B-1 Business District.

Sec. 34-478. Additional Development Criteria.

The following additional criteria shall be taken into account when reviewing site plans for development in the B-5 district:

(1) Entrances. Entrances shall have clear definition, weather protection, and adequate lighting.

(2) Mechanical Equipment. Mechanical equipment shall be screened from public right-of-ways.

(3) Trash Storage and Pick-Up. Trash storage and pick-up shall be screened from public right-of-ways and easily accessible.

(4) Direct Access from the Street: There shall be an adequate number of direct access points from the public street.

ARTICLE XIV-B. B-6 BUSINESS DISTRICT.

Sec. 34-479. Purpose and Intent.

The purpose of the B-6 Business district is to provide a special district for the University Corner commercial area which would allow and encourage a harmonious mixture of a variety of major commercial, high density residential, office and institutional uses with appropriate guidelines for height and bulk regulation.

Sec. 34-480. Compliance with Division and Other Provisions of Chapter.

A building or premises shall be used only for the following purposes. All buildings and uses permitted in the B-6 District with the exception of single family detached dwellings, single family attached dwellings not exceeding two units and two family dwellings, shall be subject to the site plan review requirements of article XXI.

Sec. 34-481. Permitted uses in B-6 by right.

The uses permitted by right in the B-6 Business District shall be the same as the uses permitted by right in the B-3 Business District.

Sec. 34-482. Same - With Special Use Permit.

The uses permitted with a special use permit in the B-6 Business District shall be the same as the uses permitted with a special permit in the B-3 Business District.

Sec. 34-483. Height and Floor Area Regulations.

The building height shall be no greater than sixty (60) feet above the average street level grade, except as provided for in Article XXIII, Exceptions and Modifications, and with the following provisions:

- (1) The minimum required height shall be twenty feet.
- (2) Within this height limitation, the floor area ratio shall be as follows: for every one square foot of land area, 4.0 square feet of gross building floor area will be allowed, exclusive of parking decks.
- (3) The maximum allowed floor area ratio achievable through bonus provisions is 5.0 square feet of building area per square foot of land area.
- (4) The maximum height of the street wall at the property line shall be forty feet.

Sec. 34-484. Bonus Provisions for Additional Floor Area.

The following bonus floor area provisions are applicable over the floor area permitted by right in developments in the B-6 district:

- (1) Moderately Priced Housing On-Site. For every one square foot of housing area, affordable to moderate income households as defined by VHDA, add four additional square feet of floor area.
- (2) Parking Above Minimum Requirements. For every off-street parking space provided over the minimum requirements, add 300 square feet of floor area. Such parking can be provided within the B-6 District.
- (3) Child Care Space. For every one square foot of child care space in a facility meeting state child care standards, add two square feet of floor area.
- (4) Landscaping Above Minimum Requirements. For every one square foot of landscaping above minimum code requirements, add .25 square feet of floor area.
- (5) Undergrounding of Wire for Electricity, Telephone, Cable: For every \$500 spent on undergrounding of such utility wires, add 10 square feet of floor area.

Sec. 34-485. Yard and Setback Regulations.

The yard and setback regulations for the B-6 District shall be as follows:

- (1) Front yard. No front yard is required.
- (2) Side yard. Requirements for side yards shall be the same as required in the B-1 Business District.
- (3) Rear yard. Requirements for rear yards shall be the same as required in the B-1 Business District.
- (4) Setback after 40 feet of building height. There shall be a 25 foot setback for at least 75% of the street wall above 40 feet high.

Sec. 34-485.1. Area Regulations.

Requirements for area shall be the same as required in the B-1 Business District.

Sec. 34-485.2. Additional Development Criteria.

The following additional criteria shall be taken into account when reviewing site plans for development in the B-6 district:

(1) Entrances. Entrances shall have clear definition, weather protection, and adequate lighting.

(2) Mechanical Equipment. Mechanical equipment shall be screened from public right-of-ways

(3) Trash Storage and Pick-Up. Trash storage and pick-up shall be screened from public right-of-ways and easily accessible.

(4) Direct Access from the Street. There shall be an adequate number of direct access points from the public street.

ARTICLE XV. M-1 RESTRICTED INDUSTRIAL DISTRICT.

Sec. 34-488. Permitted Uses - By right.

The following uses shall be permitted by right in the M-1 District.

(1) Any use permitted by right in the B-4 Business District, ~~however, no dwelling unit shall be erected or placed in any block or tract within the M-1 Restricted Industrial District unless thirty-(30)-percent or more of the area in such block or tract is occupied by dwellings.~~

...
(14) Kennels.

**ARTICLE XVII. FP FLOODPLAIN AND
CONSERVATION DISTRICT**

Section 34-537. Uses Permitted Subject to Site Plan Review.

Any other use permitted in an existing district which is overlapped by the FP District is permitted in the corresponding portion of the FP District, provided the following conditions ~~set out in this section~~ are met:

(a) When that portion of a site or parcel which is proposed to be developed lies within the FP District, a plan for the development of the entire site shall be submitted in accordance with the site plan review requirements of article XXI of this chapter.

(b) Prerequisites for flood plain development shall be as follows:

(1) ...
...

(10) Within the FP and Conservation District, all development in the flood fringe adjacent to floodway property shall be screened and buffered with vegetative plantings not less than twenty (20) feet in depth consisting of a double staggered row of evergreen trees on fifteen (15) feet centers a minimum of 3 1/2 inches in caliper and deciduous trees on twenty (20) foot centers in minimum of 3 1/2 inches in caliper. Alternative methods of vegetative screening and buffering may be approved by the Planning Commission or Director of Planning.

ARTICLE XVIII. HISTORIC PRESERVATION AND ARCHITECTURAL DESIGN CONTROL DISTRICTS

DIVISION 1. APPLICABILITY

Sec. 34-566. Purpose and intent.

The purpose of this Article is:

(a) To promote the general welfare through the preservation and protection of historic landmarks, sites, areas, and places, and any other buildings, structures, or property which serve as important visible reminders of the history or the cultural and architectural heritage of this City, the Commonwealth of Virginia, or this Nation;

(b) To protect against destruction of or encroachment upon historic areas;

(c) To ensure that new development or the alteration of properties protected by this Article is architecturally compatible with the design control districts created by this Article; and

(d) To create a plan for preservation and enhancement of Charlottesville's cultural and historic resources.

Sec. 34-567. Protected Properties.

(a) This article creates an "overlay" zoning restriction or district without affecting the underlying zoning restrictions imposed by other provisions of the City zoning ordinance. The restrictions imposed by this Article shall apply to the following properties, sites, or areas, which may be referred to collectively as "protected properties" or "protected areas and/or sites":

(1) All buildings, structures, sites, and areas, and the property on which they are located within the two major architectural design control districts shown on the City Zoning Map. The design districts so designated and thereby deemed "major" design control districts are District A (formerly the Downtown Architectural Design Control District or the "DADC"), and District B (formerly known as the Architectural Design Control District or the "ADC"). These two design districts are to be distinguished from entrance corridor overlay districts which are more limited in their application and not governed by this Article.

(2) The buildings, structures, sites, areas and historic landmarks listed below by street address and City tax map number, and the property on which they are located. These properties are outside of the major design control districts, but are deemed by City Council to be historically, culturally, or architecturally important and, as such, are minor design control districts which shall be protected properties under this Article. These properties shall be listed by street address on the City Zoning Map.

<u>Address</u>	<u>City Tax Map Designation</u>
1 -- 759 Belmont Avenue	Tax Map 58, Parcel 172
2 -- 123 Bollingwood Road	Tax Map 7, Parcel 22
3 -- Cherry Ave. & Ninth St.	Tax Map 30, Parcel 169
4 -- 907 Cottage Lane	Tax Map 2, Parcel 54.3
5 -- 908 Cottage Lane	Tax Map 2, Parcel 25
6 -- 909 Cottage Lane	Tax Map 2, Parcel 54.4
7 -- 513 Dice St.	Tax Map 29, Parcel 63.1
8 -- 402 Dice St., West	Tax Map 29, Parcel 124
9 -- 406 Dice St., West	Tax Map 29, Parcel 122
10 -- 410 Dice St., West	Tax Map 29, Parcel 119
11 -- 412 Dice St., West	Tax Map 29, Parcel 118
12 -- 200 Fifteenth St., NW	Tax Map 9, Parcel 71
13 -- 205 Fifth St., SW	Tax Map 26, Parcel 69
14 -- 217 Fifth St., SW	Tax Map 29, Parcel 66
15 -- 301 Fifth St., SW	Tax Map 29, Parcel 104
16 -- 418 Fifth St., SW	Tax Map 29, Parcel 161
17 -- 223 Fourth St., SW	Tax Map 29, Parcel 42
18 -- 206 Hartman's Mill Rd.	Tax Map 26, Parcel 38
19 -- 208 Hartman's Mill Rd.	Tax Map 36, Parcel 36
20 -- 801 High St., East	Tax Map 53, Parcel 194
21 -- 802 Jefferson St., East	Tax Map 53, Parcel 182
22 -- 808 Jefferson St., East	Tax Map 53, Parcel 81
23 -- 901 Jefferson St., East	Tax Map 53, Parcel 261
24 -- 1201 Jefferson St., East	Tax Map 54, Parcel 212
25 -- 1615 Keith Valley Rd.	Tax Map 41A, Parcel 46
26 -- 114 Lankford Ave.	Tax Map 26, Parcel 10
27 -- 205 Lankford Ave.	Tax Map 26, Parcel 1
28 -- 810 Locust Ave.	Tax Map 51, Parcel 74
29 -- 610 Lyons Court	Tax Map 52, Parcel 78
30 -- 706 Lyons Court Lane	Tax Map 52, Parcel 77
31 -- 810 Main St., West	Tax Map 30, Parcel ??
32 -- 1111-3 Main St., West	Tax Map 10, Parcel 55
33 -- 1213-4 Main St., West	Tax Map 10, Parcel 59
34 -- 512-4 Main St., West	Tax Map 29, Parcel 7
35 -- 811-3 Main St., West	Tax Map 32, Parcel 148
36 -- 600 Main St., West	Tax Map 29, Parcel 6
37 -- 632 Main St., West	Tax Map 29, Parcel 1
38 -- 817 Main St., West	Tax Map 32, Parcel 148
39 -- 909 Main St., West	Tax Map 31, Parcel 168
40 -- 1211 Main St., West	Tax Map 10, Parcel 59
41 -- 1118 Market St., East	Tax Map 54, Parcel 150
42 -- 1901 Market St., East	Tax Map 55A, Parcel 149
43 -- 224 Ninth St., SW	Tax Map 30, Parcel 65
44 -- 1105 Park St.	Tax Map 47, Parcel 7

<u>45 -- 1108 Park St.</u>	<u>Tax Map 47, Parcel 49</u>
<u>46 -- 1112 Park St.</u>	<u>Tax Map 47, Parcel 50</u>
<u>47 -- 605 Preston Place</u>	<u>Tax Map 5, Parcel 111</u>
<u>48 -- 611 Preston Place</u>	<u>Tax Map 5, Parcel 112</u>
<u>49 -- 204 Ridge St.</u>	<u>Tax Map 28, Parcel 143</u>
<u>50 -- 409 Ridge St.</u>	<u>Tax Map 29, Parcel 135</u>
<u>51 -- 413 Ridge St.</u>	<u>Tax Map 29, Parcel 136</u>
<u>52 -- 500 Ridge St.</u>	<u>Tax Map 29, Parcel 278</u>
<u>53 -- 505 Ridge St.</u>	<u>Tax Map 29, Parcel 138</u>
<u>54 -- 506 Ridge St.</u>	<u>Tax Map 29, Parcel 277</u>
<u>55 -- 510 Ridge St.</u>	<u>Tax Map 29, Parcel 275</u>
<u>56 -- 511 Ridge St.</u>	<u>Tax Map 29, Parcel 142</u>
<u>57 -- 515 Ridge St.</u>	<u>Tax Map 29, Parcel 143</u>
<u>58 -- 517 Ridge St.</u>	<u>Tax Map 29, Parcel 144</u>
<u>59 -- 522 Ridge St.</u>	<u>Tax Map 29, Parcel 271</u>
<u>60 -- 528 Ridge St.</u>	<u>Tax Map 29, Parcel 267</u>
<u>61 -- 632 Ridge St.</u>	<u>Tax Map 25, Parcel 64</u>
<u>62 -- 752 Ridge St.</u>	<u>Tax Map 25, Parcel 79</u>
<u>63 -- 818 Ridge St.</u>	<u>Tax Map 25, Parcel 102</u>
<u>64 -- 1328 Riverdale Dr.</u>	<u>Tax Map 50, Parcel 5</u>
<u>65 -- 302 Riverside Dr.</u>	<u>Tax Map 55A, Parcel 148</u>
<u>66 -- 1204 Rugby Road</u>	<u>Tax Map 38, Parcel 134</u>
<u>67 -- 2038 India Road</u>	<u>Tax Map 41B, Parcel 6</u>
<u>68 -- 204 Seventh St., SW</u>	<u>Tax Map 29, Parcel 73</u>
<u>69 -- 208 Seventh St., SW</u>	<u>Tax Map 29, Parcel 74</u>
<u>70 -- 201 Sixth St., SW</u>	<u>Tax Map 32, Parcel 124</u>
<u>71 -- 327 Sixth St., SW</u>	<u>Tax Map 29, Parcel 188</u>
<u>72 -- 309 Twelfth St., NE</u>	<u>Tax Map 54, Parcel 211</u>
<u>73 -- 104 Twelfth St., NE</u>	<u>Tax Map 10, Parcel 55</u>
<u>74 -- 1403-9 University Ave.</u>	<u>Tax Map 9, Parcel 75</u>
<u>75 -- 1411-5 University Ave.</u>	<u>Tax Map 9, Parcel 75</u>
<u>76 -- 1414 University Ave.</u>	<u>Tax Map 9, Parcel 75</u>
<u>77 -- 603 Watson Ave.</u>	<u>Tax Map 47, Parcel 43</u>
<u>78 -- 1201 Wertland Ave.</u>	<u>Tax Map 4, Parcel 307</u>
<u>79 -- 1301 Wertland Ave.</u>	<u>Tax Map 4, Parcel 303</u>
<u>80 -- 212 Wine St.</u>	<u>Tax Map 33, Parcel 32</u>

(b) The designation of any property as a minor design control district shall not be affected by a subdivision of the property.

Sec. 34-568. Additions to and deletions from districts; designation of landmarks; Preservation Plan.

(a) City Council may, by ordinance, designate additional properties to be included in a design control district, remove properties from a design control district or designate properties as historic landmarks. Prior to the adoption of such an ordinance, City Council shall consider the recommendations of the Planning Commission and the Board of Architectural Review regarding the proposed addition, removal or designation.

(b) The Board of Architectural Review shall utilize the following criteria when making recommendations regarding the addition or removal of properties from a design control district or the designation of properties as landmarks:

(1) The historical, architectural, or cultural significance, if any, of the structure or site, and whether it has been listed on the National Register of Historic Places or the Virginia Landmarks Register;

(2) The association of the structure or site with an historic person or event, or with a renowned architect or master craftsman;

(3) The overall condition and aesthetic quality of the site or structure, and whether it is or would be an integral part of an existing design control district;

(4) The age of the structure;

(5) Whether the structure is of such old or unusual design, texture, and material that it can be reproduced only with great difficulty, if at all;

(6) The degree to which the original distinguishing character, qualities or materials of a structure have been retained; and,

(7) Whether the structure or any of its features represent an infrequent or the first or last remaining example of a particular detail or type of architecture in the City.

(c) The Board of Architectural Review shall develop a preservation plan with goals and recommendations for consideration by the Planning Commission to be included in the Comprehensive Plan for Charlottesville.

DIVISION 2. BOARD OF ARCHITECTURAL REVIEW

Sec. 34-569. Consolidated board.

(a) The boards formerly known as the Board of Architectural Review, the Downtown Board of Architectural Review and the Historic Landmarks Commission are hereby consolidated into one board - the Board of Architectural Review (the "BAR"), which shall ultimately be composed of nine (9) members. Those members of the new consolidated BAR shall serve until their existing terms expire. No new appointments shall be made by City Council until the Board has been reduced to nine (9) members.

(b) Once attrition reduces the size of the BAR to nine (9) members, future appointments may be made in Council's discretion for terms of two, three, or four years until the terms of the BAR members are appropriately staggered. Thereafter all appointments shall be for four (4) years, except for appointments to fill vacancies which shall be for the unexpired remainder of the term. No member shall serve for more than two consecutive four year terms, except for the members initially appointed to fill vacancies, who may serve for two additional full terms. All members shall be residents of the City and all shall serve without compensation.

(c) To the extent practicable, at least two members shall be licensed architects, one shall be a real estate professional licensed under Chapter 18 of Title 54 of the Code of Virginia, 1950, as amended, one a City Planning Commissioner, one an owner of a commercial property in a Design Control District, one a resident of a Design Control District, two shall have substantial background

in local, state, or national history or in historic preservation, or in Landscape Architecture, and one citizen at large.

Sec. 34-570. Quorum.

A majority of the Board of Architectural Review shall constitute a quorum.

Sec. 34-571. Chairman; Vice-Chairman; Secretary.

At the first meeting of the Board of Architectural Review, the members, by majority vote, shall elect one of their number to serve as chairman. Thereafter, a chairman shall be elected annually at the first meeting to be held on or after July first in each year. Similarly, the members shall elect a vice-chairman, and shall elect a secretary, who may or may not be a member of the Board.

Sec. 34-572. Removal of members.

Any member of the Board of Architectural Review may be removed from office by the City Council for inefficiency, neglect of duty, malfeasance, or the continued absence from the regular or called meetings of the Board.

DIVISION 3. DESIGN RESTRICTIONS ON PROTECTED PROPERTIES (NEED FOR BAR APPROVAL PRIOR TO CHANGES)

Sec. 34-573. Certificate of appropriateness.

Required. No changes in the exterior features or appearance of protected properties shall be made until the owner has first sought and obtained a certificate of appropriateness from the BAR, or where applicable, from the Director of Planning. This requirement applies to any and all proposed changes in the exterior features of protected properties visible from a public street or right-of-way, including but not limited to, construction, reconstruction, alteration, restoration, demolition, removal, encapsulation, and relocation of a protected building, structure, site, place or area.

Exclusions. The BAR shall not consider interior arrangements or features or structural details which are not subject to public view from any public street or right-of-way. Nothing in this Article or section shall be construed to prevent:

(a) The ordinary maintenance or repair of any exterior elements of any building or structure; or,

(b) The construction, reconstruction, alteration or demolition of any such elements which the authorized city officers shall certify as required for public safety.

Sec. 34-574. Preapplication studies and Conferences.

Prior to submission of an application for a certificate of appropriateness, an owner may hold a conference with the Chairman of the BAR or the Director of Planning to discuss and review any proposal for a change in a protected property. The principal

objective of this conference shall be to simplify and expedite the formal review process.

Sec. 34-575. Application.

After the preapplication review, if any, has been completed and at least ten (10) days prior to the meeting at which an application matter will be heard, the owner may apply to the BAR, through the director of planning, for a certificate of appropriateness. The owner and any other interested party shall be afforded the right to be heard on the application prior to a decision by the BAR.

Sec. 34-576. Data and drawings to be submitted with application.

The following information and drawings shall be submitted with each application:

(a) Proposed changes in the exterior features of any protected property, including but not limited to the following - the general design, arrangement, texture, materials, plantings and colors to be used, the type of windows, exterior doors, lights, landscaping, parking, signs, and other exterior fixtures and appurtenances which will be subject to public view from a public street or right-of-way. The relationship of the proposed change to surrounding properties will also be shown.

(b) A photograph of the protected property, and where practicable, a photograph of the buildings on contiguous properties.

(c) Samples to show the nature, texture and color of materials proposed.

(d) The history of the building or structure, if requested by the BAR or staff.

Sec. 34-577. Review of applications; specific criteria to be applied by BAR.

(a) In reviewing any application for a certificate of appropriateness the BAR, or the Director of Planning in cases of administrative review, shall approve the application unless it finds that the proposed change (1) does not meet the standards and criteria set forth in this section, and (2) is incompatible with the historic, cultural or architectural character of the property or district.

(b) Demolition. When reviewing applications for certificates of appropriateness regarding any proposed demolition or removal of any building or site within a district, the BAR shall utilize the following criteria:

(1) The criteria for adding or removing properties from design control districts, as set forth in section 34-568 (b) of this Article;

(2) Whether the structure is not capable of earning a reasonable economic return on its value in light of its overall condition, potential uses, and location; and,

(3) Whether the restoration and preservation of the property is not economically feasible because the owner, without good cause, failed to properly maintain the property.

(c) Alterations and new construction. When reviewing applications for certificates of appropriateness regarding any proposed new construction or alteration of any existing building or site within a district the BAR shall utilize the following criteria:

(1) Whether the material, texture, color, height, scale, mass, and placement of the proposed addition, modification or construction are visually and architecturally compatible with the site and the applicable design control district;

(2) The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs and signs;

(3) The criteria identified in the Secretary of the Interior Standards for Rehabilitation (1983 Edition);

(4) The effect of the proposed change on the historic district neighborhood;

(5) The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls and walks; and,

(6) Whether the proposed method of construction, renovation or restoration could have an adverse impact on the structure or site.

34-578. Approval or disapproval of plans.

(a) The BAR or the Director of Planning may approve the application with reasonable conditions to ensure that the proposed changes are compatible with a design control district or site. Before attaching conditions to the approval, the BAR or Director of Planning shall give due consideration to the cost of complying with the proposed conditions. The BAR may also make recommendations regarding the appropriateness of material, texture, color, height, scale, mass or placement of the requested change.

(b) If the application is approved as submitted, the Director of Planning shall issue a certificate of appropriateness for the proposed change. Upon receipt of the certificate, the applicant shall post on the property for ten (10) days a notice provided by the City stating that a certificate of appropriateness has been granted by the BAR.

(c) If the application is denied, or approved with conditions over the applicant's objections, the applicant shall be notified in writing of the specific reasons for the disapproval or for the conditions. Failure of the BAR to approve an application in any form or to disapprove it within sixty (60) days from the date the application is formally submitted, shall be deemed constructive approval.

Sec. 34-579. Time limitations on certificates of appropriateness.

(a) A certificate of appropriateness shall expire and become void (i) unless a building permit for construction of the proposed improvements shall have been issued within one year after the

certificate's approval; or (ii) unless construction has substantially begun within that time period where no building permit has required.

(b) For reasonable cause, either the Director of Planning or the BAR may extend the validity of any such certificate for a period not to exceed one year.

Sec. 34-580. Special restrictions on demolition or removal.

(a) Upon receipt of an application for demolition or removal of a structure, the BAR shall have sixty days to either approve the request, or to find that the structure is of such historic, architectural or cultural significance that the public interest will best be served by requiring the owner to postpone such demolition and to make a bona fide offer to sell such structure and the land pertaining thereto pursuant to Virginia Code §15.1-503.2. The offer must be at a price reasonably related to the fair market value of the structure and land, and must be made to the city, or to any person, firm, corporation, government or agency thereof which gives reasonable assurance that it is willing to preserve and restore the landmark, building, site or structure and lands pertaining thereto.

(b) For purposes of this section, any offer which is within ten (10) percent of the then current assessed value, as shown on the official records of the City Assessor, for both the land and structure shall be persuasive evidence that the owner has made an offer at a price reasonably related to fair market value.

(c) The time during which such offers to sell shall remain open shall be as follows:

3 months when the offering price is less than \$25,000.

4 months when the offering price is greater than \$25,000 but less than \$40,000.

5 months when the offering price is greater than \$40,000 but less than \$55,000.

6 months when the offering price is greater than \$55,000 but less than \$75,000.

7 months when the offering price is greater than \$75,000 but less than \$90,000.

12 months when the offering price is greater than \$90,000.

(d) If such bona fide offer is unaccepted after the designated time period the owner shall be entitled to a certificate of appropriateness which permits the demolition of the structure.

DIVISION 4. MISCELLANEOUS

Sec. 34-581. Administrative approval and procedures.

(a) Regardless of language in this Article which may state otherwise, an owner may obtain a certificate of appropriateness from the Director of Planning rather than the BAR for the following minor exterior alterations:

(1) The repainting of an existing building in a different color;

(2) The addition or deletion of awnings, shutters, canopies, storm windows and doors, gutters and similar appurtenances;

(3) All other structural changes to protected properties which do not require issuance of a permit under the Uniform Statewide Building Code; and,

(4) The approval of any signs for which approval is required by other sections of the zoning ordinance (§§ 34-805 and 34-806).

(b) In reviewing an application for a certificate of appropriateness, the director of planning shall apply the same criteria which the BAR must use in its review process.

(c) Failure of the director of planning to approve or disapprove the application for a certificate of appropriateness within ten (10) days from the date the application is made shall be deemed "constructive" approval of the application.

(d) If approval is granted, the applicant shall post a notice provided by the City on the subject property specifying that administrative approval has been granted for a certificate of appropriateness for the property. If the application is denied, the director of planning shall mail or hand-deliver written notice of his decision to the applicant.

(e) The applicant or any other aggrieved party shall have five (5) working days from the date of the director of planning's decision to appeal that decision to the BAR.

Sec. 34-582. Maintenance and repair required.

(a) Neither the owner of nor the person in charge of a protected property shall allow such property 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 design district as a whole or the life and character of property. Examples of the type of disrepair prohibited include, but are 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 plasters 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 condition or conditions.

(b) The Zoning Administrator shall give notice by certified or registered mail of specific instances of failure to maintain or repair. The owner or person in charge of such structure shall have sixty (60) days to remedy such violation; provided that the Zoning Administrator, upon request, may allow an extension of up to sixty (60) days to remedy such violations. Thereafter, each day during which there exists any violation of this section shall constitute

a separate violation and shall be punishable as provided in this zoning ordinance.

Sec. 34-583. Height and bulk restrictions applicable to Design District B.

(a) No structure within the Design District B shall exceed a height of forty feet from grade to cornice line, unless the owner shall first have obtained a special permit for residential higher density and for such additional height from City Council, pursuant to the regular special permit procedures set forth in Article XXII; Such special permit shall be subject to the following limitations:

(1) The permit may only be granted in that portion of Design District B lying south of High Street;

(2) No such permit shall allow a building height in excess of seventy-five feet from grade to the cornice line;

(3) City Council finds that such additional height is appropriate to the particular location in question, does not have an adverse impact on the scale and architectural harmony of the design control district and permits adequate sunlight and open air on adjacent streets;

(4) The height of the street facade in one plane of any building constructed under such permit shall not be higher than forty feet from the grade, and any portion of the facade higher than forty feet shall have a setback of at least twenty feet from the front and rear property lines;

(5) The special permit shall only be considered when the proposed request encompasses an entire block of the City as designated on the official United States census map; and

(6) In any building constructed under such permit, the total area of any floor constructed more than forty feet above grade shall not exceed fifty percent of the total site area of the proposed development.

(b) In addition to any other right of review required by this Article, the BAR shall have an opportunity to review and comment on the request for additional building height prior to the Planning Commission's public hearing on the special permit. Any comments by the BAR on the application shall be made in writing no later than ten (10) working days prior to the date of the public hearing, and any such comments shall be made part of the public hearing record. The BAR shall have at least fifteen (15) days for their review and comments.

(c) The height limits in the Design District A shall be the same as those in the underlying zoning district.

Sec. 34-584. Appeals.

(a) The property owner, the Director of Planning or any aggrieved person may appeal a final decision of the BAR to the City Council by filing a written notice of appeal within ten (10) days of the date of the BAR decision.

(b) In any appeal involving a proposed demolition or removal of a protected property, the City Council shall consult with the BAR, or its duly authorized representative, prior to rendering a decision on the appeal.

(c) A final decision of the City Council may be appealed to the Circuit Court of the City of Charlottesville by the owner of the property for which the decision was sought. The appealing party shall file a petition at law, setting forth the alleged illegality of the action taken. Any appeal shall be filed within thirty (30) days after the final decision has been rendered by the City Council. Such filing shall stay the decision appealed from pending a final court order; except, that the filing of such petition shall not stay any decision which denies the right to demolish a protected property.

Sec. 34-585. Civil penalties for the unauthorized demolition, razing or moving of historic buildings or structures.

(a) Any person who demolishes, razes or moves any building or structure which is subject to the historic preservation ordinances set forth in this Article, without approval of the BAR or City Council, shall be subject to a civil penalty equal to twice the fair market value of the building or structure, as determined by the City real estate tax assessment at the time of the demolition, razing or moving.

(b) For purposes of this section, the term "person" shall include any individual, firm, partnership, association, corporation, company or organization of any kind, which is deemed by the Charlottesville Circuit Court to be responsible for the demolition, razing or moving.

(c) An action seeking the imposition of the penalty shall be instituted by petition filed by the City in the Circuit Court for the City of Charlottesville, which shall be tried in the same manner as any action at law. It shall be the burden of the City to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(d) The defendant may, within twenty-one days after the filing of the petition, file an answer and without admitting liability, agree to restore the building or structure, as it existed prior to demolition. If the restoration is completed within the time agreed upon by the parties, or as established by the Court, the petition shall be dismissed from the Court's docket.

(e) The filing of the action pursuant to this section shall preclude a criminal prosecution for the same offense, except where the demolition, razing or moving has resulted in personal injury. Nothing in this section shall preclude action by the Zoning Administrator under Virginia Code § 15.1-491(d) or by the governing body under Virginia Code § 15.1-499, either by separate action or as a part of the petition seeking a civil penalty.

ARTICLE XVIII-A. ENTRANCE CORRIDOR HISTORIC
(ECH) OVERLAY DISTRICT

DIVISION 1. APPLICABILITY

Section 34-670. Purpose and Intent.

The purpose of this article is to promote traffic safety and the general welfare of the public through the protection of the community property values, character and vistas of various City entrance corridors and the prevention of unnecessary clutter, congestion and poor definition of properties and development edges along routes of primary tourists access leading into areas and sites of significant historical value. It is the further purpose of this article to insure that any development or redevelopment is consistent with the goals of the Comprehensive Plan.

Section 34-671. Applicability.

The provisions of this article shall apply to the Entrance Corridor Historic (ECH) Overlay Districts, which shall include all land contiguous to the following arterial streets or highways:

- 1) Route 29 North from the Corporate Limits to Ivy Road;
 - 2) Hydraulic Road from the Corporate Limits to the 250 Bypass;
 - 3) Barracks Road from the Corporate Limits to Meadowbrook Road;
 - 4) Ivy Road from the Corporate Limits to Emmet Street;
 - 5) Fontaine Avenue/Jefferson Park Avenue from the Corporate Limits to Emmet Street;
 - 6) Fifth Street, SW from the Corporate Limits to West Main Street;
 - 7) Avon Street from the Corporate Limits to the CSX Railroad Tracks;
 - 8) Monticello Avenue/Route 20 from the Corporate Limits to Avon Street;
 - 9) Long Street from the Corporate Limits to St. Clair Avenue;
 - 10) East High Street from Long Street to East Market Street;
- As used herein, the term "contiguous" shall mean land which is both (i) within 100 feet of the streets and highways listed above, and (ii) part of a parcel which abuts said streets and highways.

DIVISION 2. REGULATIONS.

Section 34-672. Compliance with Division and Other Provisions of Chapter.

A building or premises shall be used only for the purposes set forth in the given district. In addition to the regulations and requirements of each appropriate district and elsewhere in this chapter, properties within the areas set forth in Section 34-671 above shall follow all the requirements set forth in this article.

Section 34-673. Height Regulations.

The building height shall be no greater than forty-five feet or the height limit in the underlying district whichever is less except as provided for in the Article XXIII, Exceptions and Modifications.

Section 34-674. Minimum Setbacks.

Building setbacks in the Entrance Corridor Historic Overlay District shall conform to those of the underlying zoning district.

Section 34-675. Area Regulations.

The area regulations for the Entrance Corridor Historic Overlay District shall be the same as those in the underlying zoning district.

Section 34-676. Screening.

a) Uses to be screened:

1) Parking lots, loading areas, refuse areas, storage areas, detention ponds and mechanical equipment shall be screened from the public right-of-way and residential uses or districts.

2) Non-residential uses shall be screened from adjacent residential uses or districts.

b) Standards for screening: When required, screening shall consist of the following:

1) A planting strip of vegetation or trees, an opaque wall, an opaque fence or a combination of these.

2) Where only vegetative screening is provided, such screening strip shall not be less than twenty (20) feet in depth and shall consist of a double staggered row of evergreen trees on fifteen feet, a minimum of five feet in height when planted, or a double staggered row of evergreen shrubs on five foot centers, a minimum of twenty- four inches in height when planted. Alternative methods of vegetative screening may be approved by the Planning Commission or the Director of Planning.

3) Where a fence or wall is provided for screening, it shall be a minimum of six feet in height with planting required at intervals along such structure. All such screening shall be subject to review and approval by the Director of Planning.

Section 34-677. Landscaping.

All non-residential uses, including parking lots and vehicular display areas, shall have all of the street frontage exclusive of driveways and walkway connections, landscaped with trees and other varieties of plant material at least 18" in height. Such planting area shall have a minimum depth of twenty (20) feet. The Planning Commission or the Planning Director may allow a deviation from these requirements, if in its judgment such deviation is consistent with the intent of this article. The tree varieties shall conform to those recommended in the Recommended Plant Species List, dated June 25, 1990, unless alternate species are approved by the

Director of Planning. All uses shall have the side and rear property edges defined with a fence, wall or curbed planting strip of trees and other plantings a minimum of 24" in height from grade, if not already being developed for screening purposes as required in Section 34-676.

Section 34-678. Lighting.

Lighting installations shall not have an adverse impact on traffic safety. Lighting fixtures shall be harmonious to the character of the proposed structures and not exceed the height of the buildings on site. Lighting shall be shielded or directed away from adjacent residential properties.

Section 34-679. Signs.

The following regulations shall apply in the ECH District in addition to those outlined in Article XX, Signs.

1) The aggregate sign areas allowed for free-standing, projecting and wall signs shall be reduced by one-half (50%) of the sign requirements of the underlying zoning district within the Entrance Corridor Historic (ECH) District.

2) Wall signs shall be limited to twenty (20) feet in height above grade.

3) No roof signs shall be permitted in the Entrance Corridor Historic (ECH) districts.

4) No free standing signs shall be permitted within 100 feet of the right-of-way of streets within an Entrance Corridor Overlay District.

5) No free standing shall sign shall be higher than twenty-five (25) feet or the height of the structure(s) it serves, whichever is less.

6) Ground signs not exceeding six (6) feet in height and twenty (20) square feet per face are permitted within 100 feet of the right-of-way of streets within the ECH District provided that they do not obstruct visibility at intersections and entrances.

7) The character of all signs shall be harmonious to the character of the structures on which they are to be placed. Among other things, consideration shall be given to the location of signs on the structure in relation to the surrounding buildings; the use of compatible colors; the use of appropriate materials, the size and style of lettering and graphics; and the type of lighting.

8) All signs in this district shall be subject to review in accordance with the procedures set forth in article XXI of this chapter dealing with site plan review.

Section 34-680. Appeals.

Appeals from any decision of the Planning Commission or Director of Planning in regards to this article shall be the same as for site plan review in Article XXI.

ARTICLE XX. SIGNS

DIVISION 2. REGULATIONS IN SPECIFIC DISTRICTS

Sec. 34-801. R-1, R-1A and R-2 Residential Districts.

The following regulations shall apply in the R-1, R-1A and R-2 Districts:

(1) Residential use. No more than one sign per dwelling unit shall be allowed. The area of such sign shall not be greater than one square foot.

(2) Non residential use. No more than one sign per nonresidential building or establishment shall be allowed. The area of such sign shall not be greater than twelve (12) square feet, except as provided in section 34-767, subparagraph (3).

ARTICLE XXI. SITE PLANS

DIVISION 4. PROCEDURE FOR REVIEW AND APPROVAL

Section 34-903. Submittal of final plan; review and approval.

(a) Six (6) copies of the final site plan shall be submitted to the department of planning and community development within six months from the date the applicant is notified of changes which need to be made as a result of the preliminary review as outlined in Section 34-902. The department of planning and community development shall have up to fourteen (14) days to circulate the plan to the relevant city departments for written comments, and to notify the applicant of the action taken with respect to the site plan, which may include approval, approval subject to conditions, disapproval or referral to the planning commission. The applicant, any person notified pursuant to section 34-902(c), the chairman of the planning commission or any two (2) members of the planning commission shall have seven (7) days from the date of notification to the applicant to request that the plan be reviewed at the next regular planning commission meeting. The planning commission may waive this seven-day requirement if the applicant can show proof satisfactory to the planning commission that the applicant has not received notification of action of the director of planning and community development.

(b) ...

(c) ...

(d) The department of planning and community development shall notify the applicant in writing of the action taken by the planning commission. A site plan which has been approved subject to specific conditions shall expire and become null and void unless, in case of conditional approval, the applicant shall makes the necessary changes and submits, within six months from the date of the planning commission approval, six (6) copies of the final site plan for the signature of the director of planning and community development.

Sec. 34-905. Expiration of approval plan.

An approved site plan shall expire and be null and void unless a building permit for the construction of the same substantial elements of the site plan has been issued within a period of one (1) year from the date the site plan was signed by the director of planning and community development. The director of planning and community development or the planning commission may grant an extension of up to one (1) year.

ARTICLE XXIII. EXCEPTIONS AND MODIFICATIONS

Sec. 34-981. Front yard adjustments.

The front yards established in this chapter shall be adjusted in the following instances:

(1) Where lots have a double frontage, the required front yard shall be provided on both streets.

(2) Where a lot in the R-1, R-1A, R-2, R-3 or B Districts is located at the intersection of two or more streets, there shall be a side yard on the side street of such corner lot of not less than twenty (20) feet in the R-1, R-1A, R-2, R-3 Districts and five (5) feet in the B Districts, except that for a lot of record as of January 21, 1958, in the R-1 and R-2 Districts and for single and two-family dwellings in the R-3 Districts the twenty foot side street yard requirement may be reduced to whatever footage will permit a maximum buildable width of not more than thirty-two (32) feet. In no case shall such side street yard requirement be less than ten (10) feet. No accessory building shall project beyond the front yard line on either street.

Approved by Council
June 3, 1991


Clerk of City Council
91-7-18