

DIVISION 2  
**Old and Historic District**

**Section 5-2-1. Boundaries. [1-3-2023 by Ord. No. 2023.01.03]**

The boundaries of the OH District shall in general be drawn to include:

- (1) Areas containing historic landmarks as established by the Virginia Board of Historic Resources, and any other concentration, linkage or continuity of buildings, structures, or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance and integrity as to warrant conservation and preservation. The District may include either individual buildings or places of such character and a reasonable distance beyond to incorporate the contributing setting, or it may include areas or groupings of resources which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some in the defined area might not possess significant merit when considered alone.
- (2) OH District boundaries may also be drawn to include any area of unique architectural value located within designated conservation, rehabilitation or redevelopment districts and land contiguous to arterial streets or highways, as designated under Title 33.2 of the Code of Virginia, 1950, as amended, found by the Town Council to be significant routes of tourist access to the locality or to designated historic districts, landmarks, buildings, or structures.
- (3) The boundaries of the OH District shall conform to the boundaries of individual lots of record to the extent possible. Where a street is proposed as a historic district boundary, the edge right-of-way adjoining the district shall be deemed the district boundary.
- (4) OH Districts may be established by the Town Council when such designation of historic sites would serve the purposes of this division, as stated in Section 5-1-2, Purpose and intent of special and overlay districts.
- (5) OH Districts shall be established in accordance with Section 5-2-2, designation of historic districts and landmarks.

**Section 5-2-2. Designation of historic districts and landmarks. [1-3-2023 by Ord. No. 2023.01.03]**

Upon recommendation of the Historic Preservation Review Board (HPRB) and adoption by the Town Council, the OH District may be enlarged or contracted, new historic districts may be established, and individual historic landmarks may be established or recognized to the full extent of the powers granted the Town in the Code of Virginia, § 15.2-2306, as amended.

- (1) Preliminary research. The HPRB shall undertake to establish and maintain a list of structures, sites and areas having a special historical, architectural or aesthetic interest or value.
- (2) Recommendation of historic districts and landmarks. The HPRB may recommend to the Town Council the initiation of an amendment to this article to designate landmarks and historic districts from the list established under Section 5-2-2(1) above, giving the reasons for its recommendation. Any such amendment shall be in accordance with the provisions of

Code of Virginia, § 15.2-2280 et seq., as amended.

- (3) Criteria for selection. A building, structure, group of structures, area, site or district may be recommended for designation as a landmark or historic district if it or they are significant by reason of one or more of the following:
  - a. Association with historic events or activities;
  - b. Association with important persons;
  - c. Distinctive design or physical characteristics; and/or
  - d. Potential to provide important information about prehistory or history.
- (4) Boundaries. In the HPRB's recommendation to the Town Council, historic districts or individual landmarks must be precisely designated by a legally sufficient description.
- (5) Other parties who may apply for designation. Designations may also be initiated upon the written application to the Board of one or more owners of property within any area thought to qualify for selection under Section 5-2-2(3), giving the basis or reason for its qualification and a legally sufficient description of the property concerned. The HPRB shall, at its next regular meeting, schedule a hearing on the application at a time which gives at least 30 days' written notice to any owner who has not joined in or ratified the application. Similarly, either the Town Council or the Planning Commission may, on its own volition, initiate designations under this section.
- (6) Moratorium on alteration or demolition while designation pending. So long as any proceedings have been filed and are pending under this section, the HPRB shall not approve any subsequently filed application for a certificate of appropriateness or other permit to erect, construct, reconstruct, alter, restore, move or demolish any building, structure or other feature on a site or area included in or encompassed by the proceedings; provided, if final action on the proceedings has not been completed within the ninety-day period following initiation of the proceedings, the certificate of appropriateness or other permit may be approved.

**Section 5-2-3. OH Subdistricts established. [1-3-2023 by Ord. No. 2023.01.03]**

To better direct development and to preserve the existing character in the OH District, the following subdistricts are established:

- (1) Subdistrict 1 - Civic/Business-Focused;
- (2) Subdistrict 2 - Residential-Focused;
- (3) Subdistrict 3 - Artisan-Focused;
- (4) Subdistrict 4 - Sinking Spring Cemetery; and
- (5) Subdistrict 5 - Muster Grounds.

**Section 5-2-4. Purpose and intent of OH Subdistricts. [1-3-2023 by Ord. No. 2023.01.03]**

- (a) Subdistrict 1 - Civic/Business-Focused. The primary purpose of Subdistrict 1 - Civic/Business-Focused is to preserve structures and uses of a civic and business nature that:
  - (1) Are critical to the character and vitality of the Town of Abingdon;
  - (2) Serve a civic need in the form of cultural and institutional services; and
  - (3) Foster interconnected commercial activity that serves the needs of nearby residents.
- (b) Subdistrict 2 - Residential-Focused. The primary purpose of Subdistrict 2 - Residential-Focused is to preserve and promote uses of a residential nature, including single-family, two-family, and multifamily dwellings and accessory uses.
- (c) Subdistrict 3 - Artisan-Focused. The primary purpose of Subdistrict 3 - Artisan-Focused is to develop and foster the arts by providing workspaces for artisans and small-scale showrooms for the selling of wares and art pieces. Subdistrict 3 - Artisan-Focused is also intended to accommodate residential uses necessary to meet the needs of the community.
- (d) Subdistrict 4 - Sinking Spring Cemetery. The purpose of Subdistrict 4 - Sinking Spring Cemetery is to preserve the Sinking Spring Cemetery for current and future use of its burial grounds and to allow for accessory uses.
- (e) Subdistrict 5 - Muster Grounds. The purpose of Subdistrict 5 - Muster Grounds is to ensure the Town's historic muster grounds continued use as a historical resource for citizens of the Town and travelers.

**Section 5-2-5. Area, setback, frontage, yard, and height regulations. [1-3-2023 by Ord. No. 2023.01.03]**

The OH District shall follow the general established pattern already in existence in the district insofar as area, setback, frontage, yard, and height regulations are concerned. Except accessory buildings, which shall:

- (1) Be no closer than five feet to any side or rear property line;
- (2) Be no taller in height than the main structure on the property; and
- (3) Follow the use performance standards provided in Article VII.

**Section 5-2-6. Certificate of appropriateness required to erect, construct, reconstruct, alter, restore, move, or demolish a building. [1-3-2023 by Ord. No. 2023.01.03]**

- (a) A certificate of appropriateness issued by the HPRB is required to erect, construct, reconstruct, alter, restore, move, or demolish a building visible from the public right-of-way or when visibility is blocked by landscaping as dictated by Article III, Permits and Applications, except as provided below in Section 5-2-6(a)(1).
  - (1) Routine maintenance and minor action exclusion. Upon written application, the Director of Community Development or designee of the Town of Abingdon (the "Administrator") may determine that certain minor actions involving buildings and structures within the OH District will have no permanent effect on the character of the

district and, by written waivers issued to the parties wishing to take the minor actions, exempt them from review by the HPRB. Each application for waiver must be on the form provided by the office of the Administrator and documented by appropriate samples of the materials and colors to be used in taking the minor actions. With respect to each waiver issued hereunder, the Administrator shall see to it through the Town's Inspection Department that the work performed and materials employed comply with the terms of the particular waiver; provided, however:

- a. If the Administrator is uncertain about his authority to grant a waiver or if the Administrator and the applicant cannot agree on changes in any application for waiver, the application shall be referred to the HPRB at its next regularly scheduled meeting for a decision on the question, which decision shall be final;
  - b. If the Administrator denies an application for a waiver, the applicant may appeal the Administrator's decision to the HPRB, in which case the HPRB's decision shall be final; and
  - c. If a waiver is issued and the work is commenced but in the opinion of the Administrator the work does not qualify for a waiver the Administrator shall order that the work be stopped until the applicant secures a certificate of appropriateness pursuant to Article III, Permits and Applications. In any such case the applicant may appeal to the HPRB, whose decision on the question shall be final.
- (b) The Administrator shall provide the HPRB with a copy of each application for a waiver at the HPRB's regularly scheduled meeting next following the date the application was received.

**Section 5-2-7. Maintenance of historic properties. [1-3-2023 by Ord. No. 2023.01.03]**

- (a) Protective maintenance required. Pursuant to Code of Virginia, § 15.2-2280, as amended, all unoccupied buildings and structures subject to this article shall be preserved against decay and deterioration, maintained free from structural defects and repaired to the extent necessary to prevent irreparable damage. For purposes of this article, a building or structure is unoccupied if in the preceding 12 calendar months no person has inhabited the premises on a continuous basis as a residence, place of work or place of carrying on official duties.
- (b) Standard of maintenance and repair required. The maintenance and repair required by this Section 5-2-7 must be sufficient to:
  - (1) Protect the structural components of the building or structure and its exterior from damage by reason of either collapse or deterioration to such an extent that repair and preservation are not economically feasible; and
  - (2) Maintain the character of the district in which the building or structure is located. Specific items of maintenance and repair include but are not limited to correction of any of the following defects:
    - a. Deterioration of exterior walls, chimneys, foundations or other vertical support.
    - b. Deterioration of flooring or floor supports, roofs or other horizontal members.

- c. Leaning, sagging, splitting, listing or buckling caused by deterioration under Subsection (b)(2)a and b.
  - d. Deterioration or crumbling of exterior plasters or mortars.
  - e. Defective waterproofing of exterior walls, roofs and foundations including windows and doors.
  - f. Inadequate weather protection for exterior wall and roof coverings, including lack of paint.
  - g. Insect infestation, rotting, holes and other forms of decay.
  - h. Deterioration of exterior stairs, porches, handrails, window and door frames.
  - i. Deterioration of architectural details, including cornices, entablatures and wall facings.
  - j. Delamination, instability, crumbling or loss of shape from deterioration under Subsection (b)(2)f and g.
  - k. Deterioration of fences, gates and accessory structures.
- (c) Enforcement. When it is brought to the attention of the Board that a property may have deteriorated to the point that it cannot meet the standards specified in Section 5-2-7(b) above, the Board shall first request a meeting with the property's owner or authorized representative (including without limitation executor, administrator, or trustee) and endeavor to discuss with such person ways to improve the condition of the building or structure in accordance with a mutually agreeable time schedule. If such procedure leads to correction of the violation to the Board's satisfaction, no further action will be taken.
- (1) If the informal procedure does not lead to correction of the condition, the Board shall request that the Administrator cause the condition of the building or structure to be investigated further through the Town's Building Inspector acting as an agent for the Board and, within 14 days thereafter, make a determination whether it is in violation of this Section 5-2-7. If such investigation leads to a determination there is no violation, no further action will be taken.
  - (2) If the investigation leads to a determination that there is a violation or probable violation, the Administrator shall give the owner or authorized representative as described above written notice in which the repairs and work necessary to comply with the provisions of this Section 5-2-7 are specifically described and ordered to be performed. The repairs and work shall be completed within 90 days from receipt of notice or such longer period of time the Administrator may specify consistent with the extent of the repairs and work, subject to extension for good cause demonstrated to the Administrator.
  - (3) Failure to complete the necessary repairs and work within the period allowed for completion under the preceding Section 5-2-7(c)(2) shall constitute a violation of this article punishable as specified in Article II, Division 5, of this chapter. In addition, the Board may, after due notice to the owner or authorized representative as described

above, direct the Administrator to enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the building or structure and charge the reasonable cost thereof to the owner, which charge shall, so long as it remains unpaid, constitute a lien against the real property upon which the building or structure is situated.

- (4) In addition to any other available ground for relief, any owner aggrieved by an order issued under the preceding Section 5-2-7(c)(3) may file a written petition with the Board for relief on the ground that the performance of the repairs and work would cause undue economic hardship. To perfect such remedy the petition must:
  - a. Be filed with the Board within 10 days after receipt of such notice and order; and
  - b. Include evidence bearing on the claim for relief and circumstances of hardship including at a minimum the following items:
    1. Nature of ownership, whether business or individual.
    2. Financial resources of the owner claiming economic hardship.
    3. Cost of repairs and work provided in the notice and order.
    4. Assessed value of the pertinent land and improvements.
    5. Real estate taxes and annual debt service for the previous two years.
    6. Any listing of the property for sale or rent and offers received, if any.
    7. Annual gross income and cash flow received from leasing or other use of the property for the previous two years.
    8. Itemized operating and maintenance expenses for the previous two years.
- (5) If the remedy is so perfected, the notice and order shall be stayed, and within 30 days after any such petition is filed the Board shall schedule a public hearing on the claim of undue economic hardship. Following a full hearing on the merits, the Board shall, within 30 days thereafter, make a finding whether or not the notice and order would entail undue economic hardship and enter the reasons for such finding into the record.
- (6) If the finding is that undue economic hardship would result, it shall be accompanied by a recommended plan to relieve the hardship which has included in its consideration:
  - a. Any available property tax relief;
  - b. Loans or grants from the Town, county or other public, private or nonprofit sources;
  - c. Acquisition of the property by purchase or eminent domain;
  - d. Modification of the building code or changes in applicable zoning regulations;
  - e. Relaxation of this article sufficient to mitigate the economic hardship; and

- f. Any other available means of relief known to the Board. The Board shall report its finding to the Administrator, who shall issue an order for the property to be repaired within the time specified in Section 5-2-7(c)(1) in the case of a finding of no undue economic hardship and an order for the property to be repaired or otherwise handled according to the recommended plan in the case of a finding of economic hardship.
- (d) Any person aggrieved by the action of either the Board or the Administrator under this Section 5-2-7 shall have a right of appeal to the Town Council and from the Town Council to the Circuit Court as specified in Article III, Division 2.