

**The Department of Community Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

---

**To:** Planning Commission  
**From:** Planning Division  
**Date:** May 9, 2018  
**Re:** *Zoning Ordinance Amendment* – Section 35.2-13.4, Initiation & Section 35.2-13.11, Appeals to City Council

---

**I. PETITIONER**

City of Lynchburg, Planning Commission, 900 Church Street, Lynchburg, Virginia 24504

**II. LOCATION**

The proposed amendments would apply to properties located within the City’s local historic districts or individual designated properties.

**Property Owner:** N/A

**III. PURPOSE**

The purpose of the amendment is to reduce the time requirement for Certificate of Appropriateness (COA) submittals and to require the posting of a notification sign when an applicant appeals a decision of the Historic Preservation Commission (HPC) to City Council.

**IV. SUMMARY**

- The amendments were identified by the Historic Preservation Commission (HPC) as ways to improve the historic district regulations.
- The Planning Commission initiated the amendments to the Zoning Ordinance on April 11, 2018.
- The *Comprehensive Plan 2013-2030* identifies historic preservation as an important influence on Lynchburg’s quality of life.

**The Planning Division recommends approval of the *Zoning Ordinance Amendments***

---

**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The *Comprehensive Plan 2013-2030* recognizes that the City’s image and unique sense of place, as well as its attractiveness to visitors and newcomers, are inextricably tied to the condition of its historic resources. As supported by the Comprehensive Plan, the Historic Districts Ordinance protects individually designated properties and those located within historic districts from inappropriate or insensitive alteration. (*pp. 99-100*)
2. **Zoning.** N/A
3. **Board of Zoning Appeals (BZA).** N/A
4. **Surrounding Area.** N/A
5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A

- 7. **Transportation & Parking.** N/A
- 8. **Stormwater Management.** N/A
- 9. **Emergency Services:** N/A
- 10. **Impact.** The Historic Preservation Commission (HPC) has identified the amendments as necessary to improve citizen experience and notification. The proposed amendments would reduce the submittal requirement for a Certificate of Appositeness (COA) from thirty (30) days to fifteen (15) days. The proposed amendments would also require the posting of a notification sign when an applicant is appealing the decision of the HPC to City Council. The public and surrounding property owners have the right to speak at a public hearing on such appeals, yet notification is currently limited to an advertisement in the local newspaper. The Historic Preservation Commission does not believe the current notification requirements are adequate in alerting the public of an appeal.
- 11. **Technical Review Committee.** N/A

**VI. PLANNING DIVISION RECOMMENDED MOTION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending Section 35.2-13.4, Initiation & Section 35.2-13.11, Appeals by reducing the submittal requirement for a Certificate of Appropriateness from thirty (30) to fifteen (15) days and to require applicants appealing a decision of the Historic Preservation Commission to City Council to post a notification sign.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP  
City Planner

- pc: Ms. Bonnie M. Svrcek, City Manager  
 Mr. Mike Goetz, Interim Deputy City Manager  
 Mr. Walter C. Erwin, City Attorney  
 Mr. Kent L. White, Director of Community Development  
 Mr. J. Lee Newland, City Engineer  
 Mr. Don DeBerry, Transportation Engineer  
 Ms. Cynthia Kozerow, Lynchburg Police Department  
 Captain Thomas Goode, Fire Marshal  
 Mr. Doug Saunders, Building Official  
 Mr. Kevin Henry, Zoning Administrator

**VII. ATTACHMENTS**

- 1. **Ordinance – Section 35.2-13.4 and Section 35.2-13.11**
- 2. **Planning Commission Resolution – April 11, 2018**
- 3. **Planning Commission Memorandum – April 11, 2018**

**35.2-13.4 Initiation**

- (a) **Application.** Applicants for review involving alterations and/or additions to existing historic structures or the erection of any new structure within a historic district shall provide the submittals required by Exhibit II-13 to the City Planner at least ~~thirty (30)~~ **fifteen (15)** days prior to the HPC meeting at which the application will be heard.
- (b) **Staff Recommendation.** Upon finding that the application is complete the City Planner shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 35.2-13.5 (Notice and HPC Hearing).
- (c) **Applications.** Applications shall include the items listed in Exhibit II-13.

**Exhibit II-13: Certificate of Appropriateness Application Submittal Requirements**

Application Submittal Requirements
Completed application form
Name and address of petitioner
Detailed description of the request (e.g., the nature of the variance or the action being appealed)
Preliminary drawings and specifications, including color samples and photographs showing existing and proposed plans and exterior elevations with sufficient detail to show, as far as they relate to exterior appearances: <ul style="list-style-type: none"><li>a. The architectural design; and</li><li>b. Proposed materials, textures and colors.</li></ul>
A scaled plan of all improvements affecting appearances of exterior walls, walks, terraces, accessory buildings, lights, and other elements in sufficient detail to illustrate that the proposed change complies with City requirements. Such plan shall include parcel lines, building locations, location of proposed work, street names, north arrow and illustrations of the proposed work.
Legible photographs of all sides of a structure to be reviewed for repair, alteration, or additions will be submitted to the HPC. In the event of new construction, legible photographs of the adjoining and opposite properties may be required

### 35.2-13.11 Appeals to City Council

- (a) Whenever the HPC shall, in a final decision, deny an application for a certificate of appropriateness, the applicant for such certificate of appropriateness shall have the right to appeal to and be heard before the City Council; provided that the appeal is filed with the clerk of the City Council within fifteen (15) days after the decision by vote of the HPC, a notice in writing of his/her intention to appeal.
- (b) Upon receipt of such notice, the clerk of the City Council shall promptly schedule a public hearing as soon as reasonably practical after complying with the requirements for published notice established in section 35.2-10.14(d)1 (Published Notice).
- (c) Prior to the scheduled City Council public hearing the applicant appealing the decision of the Historic Preservation Commission to denying a certificate of appropriateness shall post a notification sign on the property as provided in Section 35.2-10.14 (d)3 (Posted Signs).**
- ~~(e)~~ **(d)** Opponents to the granting of certificates of appropriateness by the HPC shall have the right to appeal to and be heard before the City Council, provided there is filed with the clerk of the City Council within fifteen (15) days after the decision by vote of the HPC a written petition, signed by at least twenty-five (25) registered voters of the City, indicating their intention to appeal. Upon receipt of such notice, the clerk of the City Council shall promptly schedule a public hearing as soon as it is reasonably practical for City Council after complying with notice requirements. Published notice of the hearing shall be given as provided by section 35.2-10.14(d)1 (Published Notice) of this Zoning Ordinance. Costs of advertising appeal hearings requested by said opponents will be paid by the opponents in the amount set forth in the fee schedule adopted by the City Council.
- ~~(d)~~ **(e)** On any such appeal, the final decision of the HPC appealed from shall be stayed pending the outcome of the appeal to City Council, except that the filing of such appeal shall not stay the decision of the HPC if such decision denies the right to raze or demolish a historic landmark, building or structure. The City Council shall conduct a full and impartial public hearing on the matter and apply the same criteria as the HPC before rendering any decision. The City Council may affirm, reverse or modify the decision of the HPC, in whole or in part. The decision of City Council, subject to the provisions of section 35.2-13.12, shall be final. If approved, a certificate of appropriateness, signed by the clerk of the City Council, shall be issued to the applicant.

**RESOLUTION OF THE LYNCHBURG PLANNING COMMISSION**

WHEREAS: The City of Lynchburg is the dynamic center of a growing region.

WHEREAS: The City of Lynchburg is well known for its quality of life, economic vitality, rich history and cultural diversity.

WHEREAS: The City of Lynchburg is committed to strong neighborhoods, a downtown that is the heart of the region, attractive and accessible commercial areas, celebrating its history and heritage, protecting its environment, a diverse economy, quality education and effective support systems.

WHEREAS: By act of the General Assembly of Virginia as provided in Title 15.2, Chapter 22, Article 7, Sections 15.2-2280 through 15.2-23.16 of the *Code of Virginia*, as amended, any locality may, by ordinance classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purposes of the Article.

WHEREAS: The City Council adopted the *Zoning Ordinance* on February 23, 2016 after a systematic review and public input to ensure that future growth is consistent with the City's *Comprehensive Plan 2013-2030*.

WHEREAS: City Staff and the Historic Preservation Commission (HPC) has found that modification of portions of the adopted *Zoning Ordinance* will facilitate improvements in historic districts and increase awareness of major HPC decisions and appeals.

NOW, THEREFORE, BE IT RESOLVED by the Lynchburg Planning Commission that in order to promote the public necessity, convenience, general welfare and good zoning practice, the Planning Commission does hereby initiate, agree to consider, and direct City Staff to prepare amendments to Chapter 35.2, *Zoning Ordinance* of the *City Code* of Lynchburg to improve sections of the Ordinance related to application time periods and notification of Certificates of Appropriateness and when they are appealed.

Adopted: \_\_\_\_\_

Certified: \_\_\_\_\_

Secretary, Lynchburg Planning Commission



# Memorandum

*Planning Division • Community Development*

900 Church Street  
Lynchburg, Virginia 24504  
P 434-455-3900

**To:** Planning Commission

**From:** Anne Nygaard, Secretary to the HPC

**CC:** Tom Martin, Kent White

**Date:** April 11, 2018

**Re:** HPC related Zoning Ordinance Revisions

In recent discussions, the Historic Preservation Commission identified a couple areas of the Zoning Ordinance that could be modified to improve a citizen's experience dealing with the regulations of local historic districts. Please consider initiating revisions to the City's Zoning Ordinance on the following matters:

- 1) **Application Time Periods.** The Zoning Ordinance requires that applications for Certificates of Appropriateness (COAs) for work in historic districts be submitted thirty (30) days prior to a meeting of the Historic Preservation Commission (HPC). This requirement was adopted at the request of HPC with the update to the Zoning Ordinance in 2016. While an application deadline is necessary to provide adequate time for administrative processing and commission review, thirty (30) days is extensive and may be a burden on property owners wanting to improve the city's historic resources.
- 2) **Notification Requirements.** The Zoning Ordinance currently contains limited requirements for notification of COA applications and appeals of HPC decisions. The public has the right to a public hearing in appeals cases, but the notification of such a hearing is limited to the newspaper ad in the local paper. The commission believes this alone is not an adequate means of alerting the public of an appeal. Additionally, COA applications range in scale from minor actions like new downspouts to major actions like building additions. HPC is interested in requiring more notification on major actions. If initiated, staff will conduct further research and develop recommendations for appropriate notification signage in historic districts in coordination with the HPC.