

ORDINANCE NO. 5189

AN ORDINANCE to amend and reordain Section 6-403 (General regulations and exceptions) of Article VI (SPECIAL AND OVERLAY ZONES); Section 7-802 (Board of architectural review waiver) of Article VII (SUPPLEMENTAL ZONE REGULATIONS); Sections 8-200 (General parking regulations) and 8-602 (Requirements and standards) of Article VIII (OFF-STREET PARKING AND LOADING); Section 9-301 (Review required) of Article IX (SIGNS); Section 10-100 (Old and Historic Alexandria District), Section 10-200 (Parker-Gray District), and Section 10-300 (Preservation of certain buildings and structures over 100 years old outside the Old and Historic Alexandria District and the Parker-Gray District) of Article X (HISTORIC DISTRICTS AND BUILDINGS); and Section 11-513 (Administrative special use permit) of Division B (DEVELOPMENT APPROVALS) of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES); and add a new Section 10-400 (Board of architectural review) of Article X (HISTORIC DISTRICTS AND BUILDINGS) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2018-0010.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2018-0010, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on November 1, 2018 of a text amendment to the Zoning Ordinance to adopt changes to the Zoning Ordinance to create the Alexandria board of architectural review and dissolve the Old and Historic District and Parker-Gray District boards of architectural review, which recommendation was approved by the City Council at public hearing on November 17, 2018;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-403 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-403 - General regulations and exceptions.

(B) Mechanical appurtenances. Chimney, towers, tanks, machinery, equipment, penthouses or other necessary mechanical appurtenances to a main building may be erected as a part of the main building to their required heights, regardless of any other height provisions or restrictions of this ordinance, provided that the following requirements are met.

(3) For buildings located within the Old and Historic Alexandria District or the Parker Gray District, or for buildings outside such districts designated pursuant to section 10-300, the board of architectural review ~~having jurisdiction of the matter~~ may, after public hearing, waive or modify the screening requirement of subsection (B)(1) of this section, if the board finds such requirement to be architecturally inappropriate. The board of architectural review ~~for the Parker Gray District~~ may delegate the waiver authority in the Parker-Gray District under this subsection (3), making it an administrative determination pursuant to the requirements of section 10-203 of this ordinance.

Section 2. That Section 7-802 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

7-802 - Board of architectural review waiver.

The requirements of this section 7-800 may be waived by the ~~Old and Historic Alexandria or Parker Gray District~~ board of architectural review where to do so would be consistent with the historic character of the district. In the case of such a waiver and where necessitated thereby the ~~Old and Historic Alexandria or Parker Gray District~~ board of architectural review may also waive any applicable yard or setback requirement.

Section 3. That Section 8-200 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

Sec. 8-200 - General parking regulations.

(C) Location of parking facilities.

(5) Access to parking, required or otherwise, shall be limited as follows:

(b) Within the Parker-Gray District, access to all parking shall be from an alley or interior court. Upon a finding by the director that such access is clearly not feasible, an application for a curb cut to provide access may be filed with the director of transportation and environmental services who shall, after review by the director and the director of transportation and environmental services, and provided the application meets the criteria of section 5-2-14(c) of the city code, docket the matter for hearing before the ~~Parker-Gray District~~ board of architectural review. The board of architectural review shall approve or deny the application based on whether the location and nature of the proposed curb cut and associated parking facility is compatible with the character and architectural style of the developed blockface. The decision of the board of architectural review may be appealed to city council pursuant to section 10-207. If approval of a curb cut as specified in this subparagraph is not granted, then a waiver as to part or all of any parking requirement may be granted by the planning commission as part of its site plan review, or, if no site plan is required, by the director.

(c) For buildings or structures over 100 years old designated for preservation pursuant to section 10-300, access to all parking shall be provided from an alley or interior court. Upon a finding by the director that such access is clearly not feasible, an application for a curb cut to provide access may be filed with the director of transportation and environmental services who shall, after review by the director and the director of transportation and environmental services, and provided the application meets the criteria of section 5-2-14(c) of the city code, docket the matter for hearing before the ~~Old and Historic Alexandria District~~ board of architectural review. The board of architectural shall approve or deny the application based on whether the location and nature of the proposed curb cut and associated parking facility is compatible with the character and architectural style of the designated building or structure. The decision of the board of architectural review may be appealed to city council pursuant to section 10-309. If approval of a curb cut as specified in this subparagraph is not granted, then a waiver as to part or all of any parking requirement may be granted by the planning commission as part of its site plan review or, if no site plan is required, by the director. The requirements of this subparagraph shall apply to all the land appurtenant to such designated building or structure, whether comprised of a single lot or multiple lots of record, on the date of designation.

Section 4. That Section 8-602 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

8-602 - Requirements and standards.

Any motor vehicle or storage use in the RM residence zone shall comply with the following requirements and standards:

(T) All structures on such uses located within the Old and Historic Alexandria District or the Parker-Gray District shall be subject to the approval of the board of architectural review ~~of the applicable district.~~

Section 5. That Section 9-301 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

9-301 - Review required.

(A) Certificate of appropriateness. A certificate of appropriateness from the ~~appropriate~~ board of architectural review or the director pursuant to sections 10-113 and 10-203 is required for any sign, marquee or awning permanently affixed or displayed when subject to view from a public street or place and affixed to a building or structure located in or otherwise displayed within the Old and Historic Alexandria District or the Parker-Gray District or when affixed to or displayed on a 100-year-old building designated by city council under section 10-300.

Section 6. That Section 10-100 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in

underline, as follows:

Section 10-100 - Old and Historic Alexandria District.

10-103 - Certificates and permits required.

(A) *Certificate of appropriateness required.* No building or structure shall be erected, reconstructed, altered or restored within the Old and Historic Alexandria District unless and until an application for a certificate of appropriateness shall have been approved by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal as to exterior architectural features, including signs (see Article IX), which are subject to public view from a public street, way or place. Evidence of such required approval shall be a certificate of appropriateness issued by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal.

(B) *Permit to move, remove, capsulate or demolish required.* No building or structure within the Old and Historic Alexandria District shall be moved, removed, capsulated or demolished in whole or in part without first obtaining a permit approved by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal, except as provided in section 10-111 and except for demolitions of portions of buildings resulting in the removal of less than 25 square feet total of exterior wall, roof or surface which shall be deemed an alteration and subject to section 10-103(A). The board of architectural review or the city council on appeal may refuse such permit for any building or structure of such architectural or historic interest, the moving, removing, capsulating or demolition in whole or in part of which, in the opinion of the board or the city council on appeal, would be detrimental to the public interest of the city.

(C) *Applications for certificates of appropriateness and permits.* Applications for certificates of appropriateness required by section 10-103(A) or permits required by section 10-103(B) shall be made to the director by the owner or authorized agent of the owner of the subject property.

10-104 - ~~Board of architectural review.~~ Board of architectural review.

~~_____The board of architectural review, section 10-400, administers the Old and Historic Alexandria District.~~

~~(A) *Board of architectural review established.* There is hereby established the Old and Historic Alexandria District board of architectural review to be composed of seven members.~~

~~(B) *Powers and duties.* The board of architectural review shall:~~

~~(1) Develop and recommend to city council the adoption of rules, regulations and procedures pursuant to section 9.09(j) of the city charter.~~

~~(2) Develop, adopt and publish criteria and guidelines, within the standards developed by city council under section 10-105, to be considered in granting or denying certificates of appropriateness and permits to move, remove, capsulate or demolish in whole or in part, provided that such criteria and guidelines shall be consistent with the provisions of this Article X and with such standards, rules, regulations, and procedures as city council may establish pursuant to section 9.09(j) of the city charter.~~

~~(3) Develop, adopt and publish administrative procedures which shall not be in conflict with the procedures established in this Article X.~~

~~(4) Be responsible for making effective the provisions of this Article X with respect to the Old and Historic Alexandria District and with respect to the provisions of section 10-300~~

relating to the preservation of certain buildings and structures over 100 years old outside the Old and Historic Alexandria District and the Parker Gray District.

~~(C) — *Composition.* The Old and Historic Alexandria District board of architectural review shall be composed of seven members who are residents of the city and have resided in the city for at least one year immediately preceding their appointment. Two members shall be architects. Members shall have a demonstrated interest, experience, or education in history, architecture or historic preservation. The members shall be appointed by city council for terms of three years. The term of each member shall run from July 1 of the year of appointment. Any vacancy shall be filled for the balance of the unexpired term. Any member of the Old and Historic Alexandria District board of architectural review may be removed by city council for cause after having been given a written statement of the cause and an opportunity to be heard thereon.~~

~~(D) — *Conflicts of interest.* Each member of the board of architectural review shall be under a continuous duty to remain conscious of and sensitive to any possible conflict of interest which may arise by virtue of his membership on the board. A member, promptly upon his determining he has a conflict of interest relative to any matter brought, shall disqualify himself from participating, in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such matter. The State and Local Government Conflicts of Interest Act, section 2.1-639.1 et seq. of the Code of Virginia, shall, where applicable, control the actions of all members of the board.~~

~~(E) — *Chairman and secretary.* The Old and Historic Alexandria District board of architectural review shall elect its chairman from its membership and the director or his designee or designees, shall be the board's secretary.~~

~~(F) — *Procedure for meetings.*~~

~~(1) The chairman of the board of architectural review shall conduct its meetings and the secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote, and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within 40 days after a complete application for a certificate of appropriateness or permit requiring action by the board has been received by the director. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. No proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it no later than at its next regularly scheduled meeting, not to exceed 60 days, after the conclusion of the public hearing on the matter unless the time is extended by mutual agreement between the board and the applicant; the failure of the board to vote and announce its decision within the required time, or within such longer period of time extended by mutual agreement between the board and the applicant, shall constitute approval of the application. Notwithstanding the provisions stated above, an application for a certificate of appropriateness or antecedent permit for a project which requires a site plan under section 11-400 of this ordinance shall be heard and determined by the board within a reasonable time.~~

~~(2) No application for a certificate of appropriateness required by section 10-103(A) which has been denied by the board of architectural review shall be heard again by it within one year of the date of its denial of the application, except under such terms and conditions as shall be established by the board, within the scope of section 10-105, for rehearing the application at the time of its denial of same.~~

~~(3) In the case of a disapproval of the moving, removing, capsulating or demolition in whole or in part of a building or structure in the Old and Historic Alexandria District, the board of architectural review shall state its reasons therefor in writing in some detail. No application for a permit required by section 10-103(B) which has been denied shall be heard again within one year from the date of the denial of the application.~~

~~(4) If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to move, remove, capulate or demolish in whole or in part, the board of architectural review shall forward its reasons in writing to the council.~~

~~(5) The board of architectural review may establish its own rules of procedure for the conduct of its meetings provided that such rules are not in conflict with procedures established in section 9.09(j) of the city charter or this Article X.~~

~~(G) *Notice of hearing on permits.* No application for a certificate of appropriateness or a permit to move, remove, capulate or demolish in whole or in part in the Old and Historic Alexandria District shall be considered unless and until the secretary to the board of architectural review has given notice of the proposed hearing before the board according to the provisions of section 11-300.~~

10-105 - Matters to be considered in approving certificates and permits.

(A) *Certificate of appropriateness.*

(1) *Scope of review.* ~~The Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal shall limit its review of the proposed construction, reconstruction, alteration or restoration of a building or structure to the building's or structure's exterior architectural features specified in sections 10-105(A)(2)(a) through (2)(d) below which are subject to view from a public street, way, place, pathway, easement or waterway and to the factors specified in sections 10-105(A)(2)(e) through (2)(j) below; shall review such features and factors for the purpose of determining the compatibility of the proposed construction, reconstruction, alteration or restoration with the existing building or structure itself, if any, and with the Old and Historic Alexandria District area surroundings and, when appropriate, with the memorial character of the George Washington Memorial Parkway, including the Washington Street portion thereof, if the building or structure faces such highway; and may make such requirements for, and conditions of, approval as are necessary or desirable to prevent any construction, reconstruction, alteration or restoration incongruous to such existing building or structure, area surroundings or memorial character, as the case may be.

(2) *Standards.* Subject to the provisions of section 10-105(A)(1) above, ~~the Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal shall consider the following features and factors in passing upon the appropriateness of the proposed construction, reconstruction, alteration or restoration of buildings or structures:

(a) Overall architectural design, form, style and structure, including, but not limited to, the height, mass and scale of buildings or structures;

(b) Architectural details including, but not limited to, original materials and methods of construction, the pattern, design and style of fenestration, ornamentation, lighting, signage and like decorative or functional fixtures of buildings or structures; the degree to which the distinguishing original qualities or character of a building, structure or site (including historic materials) are retained;

- (c) Design and arrangement of buildings and structures on the site; and the impact upon the historic setting, streetscape or environs;
- (d) Texture, material and color, and the extent to which any new architectural features are historically appropriate to the existing structure and adjacent existing structures;
- (e) The relation of the features in sections 10-105(A)(2)(a) through (d) to similar features of the preexisting building or structure, if any, and to buildings and structures in the immediate surroundings;
- (f) The extent to which the building or structure would be harmonious with or incongruous to the old and historic aspect of the George Washington Memorial Parkway;
- (g) The extent to which the building or structure will preserve or protect historic places and areas of historic interest in the city;
- (h) The extent to which the building or structure will preserve the memorial character of the George Washington Memorial Parkway;
- (i) The extent to which the building or structure will promote the general welfare of the city and all citizens by the preservation and protection of historic interest in the city and the memorial character of the George Washington Memorial Parkway; and
- (j) The extent to which such preservation and protection will promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the city a more attractive and desirable place in which to live.

(3) *Additional standards—Washington Street.*

(a) In addition to the standards set forth in section 10-105(A)(2), the following standards shall apply to the construction of new buildings and structures and to the construction of additions to buildings or structures on lots fronting on both sides of Washington Street from the southern city limit line north to the northern city limit line:

(1) Construction shall be compatible with and similar to the traditional building character, particularly including mass, scale, design and style, found on Washington Street on commercial or residential buildings of historic architectural merit.

(i) Elements of design consistent with historic buildings which are found on the street shall be emphasized.

(ii) New buildings and additions to existing buildings shall not, by their style, size, location or other characteristics, detract from, overwhelm, or otherwise intrude upon historic buildings which are found on the street.

(iii) The design of new buildings and additions to existing buildings shall be complementary to historic buildings which are found on the street.

(iv) The massing of new buildings or additions to existing buildings adjacent to historic buildings which are found on the street shall closely reflect and be proportional to the massing of the adjacent historic buildings.

(v) New buildings and additions to existing buildings which are larger than historic buildings which are found on the street shall be designed to look separate and shall not give the impression of collectively being more massive than such historic buildings. This design shall be accomplished through differing historic architectural designs, facades, setbacks, roof lines and styles. Buildings should appear from the public right-of-way to have a footprint no larger than 100 feet by

80 feet. For larger projects, it is desirable that the historic pattern of mid-block alleys be preserved or replicated.

(vi) Applications for projects over 3,000 square feet, or for projects located within 66 feet of land used or zoned for residential uses, shall include a building massing study. Such study shall include all existing and proposed buildings and building additions in the six block area as follows: the block face containing the project, the block face opposite, the two adjacent block faces to the north and the two adjacent block faces to the south.

(vii) The massing and proportions of new buildings or additions to existing buildings designed in an historic style found elsewhere in along Washington Street shall be consistent with the massing and proportions of that style.

(viii) New or untried approaches to design which result in new buildings or additions to existing buildings that have no historical basis in Alexandria or that are not consistent with an historic style in scale, massing and detailing, are not appropriate.

(2) Facades of a building generally shall express the 20- to 40-foot bay width typically found on early 19th century commercial buildings characteristic of the Old and Historic Alexandria District, or the 15- to 20-foot bay width typically found on townhouses characteristic of the Old and Historic Alexandria District. Techniques to express such typical bay width shall include changes in material, articulation of the wall surfaces, changes in fenestration patterns, varying roof heights, and physical breaks, vertical as well as horizontal, within the massing.

(3) Building materials characteristic of buildings having historic architectural merit within the district shall be utilized. The texture, tone and color of such materials shall display a level of variety, quality and richness at least equal to that found abundantly in the historic setting.

(4) Construction shall reflect the traditional fenestration patterns found within the Old and Historic Alexandria District. Traditional solid-void relationships exhibited within the district's streetscapes (i.e., ratio of window and door openings to solid wall) shall be used in building facades, including first floor facades.

(5) Construction shall display a level of ornamentation, detail and use of quality materials consistent with buildings having historic architectural merit found within the district. In replicative building construction (i.e., masonry bearing wall by a veneer system), the proper thicknesses of materials shall be expressed particularly through the use of sufficient reveals around wall openings.

(b) No fewer than 45 days prior to filing an application for a certificate of appropriateness, an applicant who proposes construction which is subject to this section 10-105(A)(3), shall meet with the director to discuss the application of these standards to the proposed development; provided, that this requirement for a preapplication conference shall apply only to the construction of 10,000 or more square feet of gross building area, including but not limited to the area in any above-ground parking structure.

(c) No application for a certificate of appropriateness which is subject to this section 10-105(A)(3) shall be approved by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review, unless it makes a written finding that the proposed construction complies with the standards in section 10-105(A)(3)(a).

(d) The director may appeal to city council a decision of the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review granting or denying an application for a certificate of appropriateness subject to this section 10-105(A)(3), which right of appeal shall be in addition to any other appeal provided by law.

(e) The standards set out in section 10-105(A)(3)(a) shall also apply in any proceedings before any other governmental or advisory board, commission or agency of the city relating to the use, development or redevelopment of land, buildings or structures within the area subject to this section 10-105(A)(3).

(f) To the extent that any other provisions of this ordinance are inconsistent with the provisions of this section 10-105(A)(3), the provisions of this section shall be controlling.

(g) The director shall adopt regulations and guidelines pertaining to the submission, review and approval or disapproval of applications subject to this section 10-105(A)(3).

(h) Any building or addition to an existing building which fails to comply with the provisions of this paragraph shall be presumed to be incompatible with the historic district and Washington Street standards, and the applicant shall have the burden of overcoming such presumption by clear and convincing evidence.

(i) The applicant for a special use permit for an increase in density above that permitted by right shall have the burden of proving that the proposed building or addition to an existing building provides clearly demonstrable benefits to the historic character of Washington Street, and, by virtue of the project's uses, architecture and site layout and design, materially advances the pedestrian-friendly environment along Washington Street.

(4) *Additional standards—Potomac River Vicinity.* Within the Potomac River Vicinity Height District, in addition to the provisions of section 10-105(A)(2), the following standards and guidelines, to the extent relevant in each individual case, shall apply in considering an application for a certificate of appropriateness by the ~~Old and Historic District Board of Architectural Review~~ board of architectural review, or by the city council on appeal, for any building in excess of 30 feet in height when such height has been authorized by a special use permit.

(a) The degree to which facades of a proposed building or buildings are generally in alignment with the existing street edges and express the 20- to 30-foot bay width typically found within the historic district. Techniques to express such typical bay width should include changes in materials; articulation of the wall surfaces; changes in fenestration patterns; varying roof heights; and physical breaks within the massing. Large expanses of unbroken or repetitive facades are disfavored.

(b) The degree to which building materials characteristic of buildings having architectural merit within the historic district are utilized. The texture, tone and color of such materials should display a level of variety, quality and richness at least equal to that found abundantly in the historic setting. The use of synthetic or imitative materials is disfavored.

(c) The degree to which new construction reflects the traditional fenestration patterns found within the historic district. Traditional solid-void relationships (i.e., masonry bearing wall by a veneer system) should be used in building facades which are directly related to historic streetscapes.

(d) The degree to which new construction on the waterfront reflects the existing or traditional building character suitable to the waterfront. "High style" or highly

ornamented buildings are disfavored. Also disfavored are metal warehouses and nondescript warehouse-type structures.

(e) To the extent that any provisions of section 10-105(A)(2) are inconsistent with the provisions of this section 10-105(A)(4), the provisions of this section shall be controlling.

(B) *Permit to move, remove, capsule or demolish in whole or in part buildings or structures.* The ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal shall consider any or all of the following criteria in determining whether or not to grant a permit to move, remove, capsule or demolish in whole or in part a building or structure within the Old and Historic Alexandria District.

(1) Is the building or structure of such architectural or historical interest that its moving, removing, capsulating or razing would be to the detriment of the public interest?

(2) Is the building or structure of such interest that it could be made into an historic shrine?

(3) Is the building or structure of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?

(4) Would retention of the building or structure help preserve the memorial character of the George Washington Memorial Parkway?

(5) Would retention of the building or structure help preserve and protect an historic place or area of historic interest in the city?

(6) Would retention of the building or structure promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the city a more attractive and desirable place in which to live?

(7) In the instance of a building or structure owned by the city or the redevelopment and housing authority, such building or structure having been acquired pursuant to a duly approved urban renewal (redevelopment) plan, would retention of the building or structure promote the general welfare in view of needs of the city for an urban renewal (redevelopment) project?

10-106 - Issuance and expiration of certificates of appropriateness or permits.

(A) *Issuance.*

(1) Upon approval by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review of any erection, reconstruction, alteration or restoration, a certificate of appropriateness, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 10-107, shall be made available to the applicant.

(2) Upon approval by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review of any application to move, remove, capsule or demolish in whole or in part, a permit for same, signed by the secretary of the board of architectural review and bearing the date of issuance, but subject, however, to the provisions of section 10-107 shall be made available to the applicant.

(3) In instances where the city council on appeal approves any erection, reconstruction, alteration or restoration, or where the city council on appeal approves the moving, removing, capsulating or demolition in whole or in part of, a certificate of appropriateness or a permit to move, remove, capsule, or demolish in whole or in part, bearing the date of issuance but

subject, however, to the provisions of section 10-107(B), shall forthwith be signed by the mayor and made available to the applicant.

(B) *Expiration.* Any certificate of appropriateness issued pursuant to section 10-106(A) and any permit to move, remove, capsulate or demolish in whole or in part in the Old and Historic Alexandria District issued pursuant to section 10-106(B) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12 month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article X shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a development special use permit or site plan under section 11-400 of this ordinance, the period of validity shall be coincident with the validity of the development special use permit or site plan as determined pursuant to section 11-418 of this ordinance.

10-107 - Appeals from ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review.

(A) *Appeal to city council.*

(1) Whenever the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review shall disapprove an application for a certificate of appropriateness or an application for a permit to move, remove, capsulate or demolish in whole or in part, the applicant for such certificate or for such permit shall have the right to appeal to and be heard before the city council; provided, that the applicant files with the clerk of the city council, on or before 14 days after the decision of the board of architectural review, a notice in writing of the applicant's intention to appeal. Upon receipt of such notice, the clerk of the city council shall schedule a public hearing before the city council to be held within 75 days after the receipt by the clerk of such notice, but no such hearing shall be had unless and until notice pursuant to section 11-302(A) has been given. Each such notice of appeal shall be accompanied by the fee prescribed pursuant to section 11-104.

(2) Whenever the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review shall approve an application for a certificate of appropriateness or an application for a permit to move, remove, capsulate or demolish in whole or in part, opponents to the granting of such certificate or of such permit shall have the right to appeal to and be heard before the city council; provided, that there is filed with the clerk of the city council, on or before 14 days after the decision of the board of architectural review, a petition in writing signed by the city manager or at least 25 persons owning real estate within the Old and Historic Alexandria District indicating their intention to appeal and the basis for the appeal. Upon receipt of such notice, the clerk of the city council shall schedule a public hearing before the city council at a time not less than 30 days after the receipt by the clerk of such notice, but no such hearing shall be had unless and until notice pursuant to section 11-302(A) has been given. Each such notice of appeal shall be accompanied by the fee prescribed pursuant to section 11-104.

(3) On any such appeal, the decision of the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review appealed from shall be stayed pending the outcome of the appeal before the council. The council shall conduct a full and impartial

public hearing on the matter before rendering any decision. The same standards shall be applied by the council as are established for the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review. The council may affirm, reverse or modify the decision of the board, in whole or in part. The decision of the council, subject to the provisions of section 10-107(B), shall be final.

(B) *Appeal from city council to court.* Any applicant or any of the petitioners aforesaid aggrieved by a final decision of the city council shall have the right to appeal such decision to the circuit court for a review; provided, such appeal is filed within a period of 30 days after the rendering of the final decision by the city council. Such appeal shall be taken by filing a petition, at law, to review the decision of council, and the filing of such petition shall stay the council's decision pending the outcome of the appeal to the court. Findings of fact by the council shall be conclusive on the court in any such appeal. The court may reverse or modify the decision of the council, in whole or in part, if it finds upon review that the decision of the council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of council.

10-108 - Additional or concurrent right to move, remove, capsulate or demolish in whole or in part buildings or structures.

(A) *Right to move, remove, capsulate or demolish in whole or in part buildings or structures if conditions are met.* In addition to the right of appeal hereinabove set forth, the owner of a building or structure, the moving, removing, capsulating, or demolition in whole or in part of which is subject to the provisions of this Article X, shall, as matter of right, be entitled to move, remove, capsulate, or demolish in whole or in part such building or structure provided, that:

(1) The owner has applied to the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review for such right and has also been a party to an appeal from the board's decision to the council.

(2) The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value made a bona fide offer to sell such building or structure and the land pertaining thereto to any person, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.

(3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after a final decision by the city council. The time schedule for offers to sell shall be as follows:

- (a) 3 months when the offering price is less than \$25,000.00;
- (b) 4 months when the offering price is \$25,000.00 or more but less than \$40,000.00;
- (c) 5 months when the offering price is \$40,000.00 or more but less than \$55,000.00;
- (d) 6 months when the offering price is \$55,000.00 or more but less than \$75,000.00;
- (e) 7 months when the offering price is \$75,000.00 or more but less than \$90,000.00;
- (f) 12 months when the offering price is \$90,000.00 or more.

(B) *Bona fide offer to sell.*

(1) *Notice.* Before making a bona fide offer to sell as provided for in section 10-108(A), an owner shall first file a statement with the director. The statement shall identify the property, state the offering price, the date the offer of sale is to begin and name the real estate agent, if any. No time period set forth in the schedule contained in section 10-108(A) shall begin to run until the statement has been filed. Within five days after receipt of a statement the director shall mail a copy of the statement to the mayor, the city council, the city manager and subscribers to the notice provided for in section 10-112. Such offer to sell shall be advertised in a newspaper of general circulation in the city.

(2) *Question as to price.* The fact that an offer to sell a building or structure is at a price reasonably related to fair market value may be questioned, provided there is filed with the city manager, on or before 15 days after the offer for sale has begun, a petition in writing signed by at least 25 persons owning real estate located within the Old and Historic Alexandria District. Upon the receipt of such petition, the city manager shall, at city expense, forthwith appoint three disinterested real estate appraisers, familiar with property values in the Old and Historic Alexandria District, who shall forthwith make an appraisal of the building or structure in question and forthwith file a written report with the city manager whether or not in their opinion the offer to sell the building or structure is at a price reasonably related to its fair market value. The opinion of any two of the three appraisers shall be binding and final. In the event the opinion is to the effect that the offer to sell the building or structure is at a price reasonably related to its fair market value, the owner may continue pursuant to section 10-108(A) as if no question has been raised. In the event the opinion is to the effect that the offer to sell the building or structure is not at a price reasonably related to its fair market value, the offer to sell shall be void and of no force and effect, and the owner, if he wishes to take advantage of the additional or concurrent right provided for in section 10-108(A), must file the notice provided for in section 10-108(B) and proceed in accord with section 10-108(A). Notwithstanding an adverse opinion by the appraisers, if an owner has entered into a binding bona fide contract as provided for in section 10-108(A) prior to the date the appraisers have filed their report with the city manager, the price shall be deemed reasonably related to fair market value.

10-111 - Order of demolition for unsafe buildings.

Nothing in this Article X shall apply to or in any way prevent the moving, removing, capsulating or demolition in whole or in part of any building or structure in the city which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the code or building official; provided that before a moving, removing, capsulating or demolition in whole or in part can be ordered by the code or building official, when the code or building official determines that such dangerous, hazardous, or unsafe condition could reasonably be expected to cause death or serious physical harm before review under the provisions of this Article X could be accomplished, the code or building official shall have first delivered a copy of the proposed order to the city manager, to the chairman and vice chairman of the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review, and mailed to the subscribers provided for in section 10-112 a copy of the proposed order.

Section 7. That Section 10-200 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

Section 10-200 - Parker-Gray District.

10-203 - Certificates and permits.

(A) *Certificate of appropriateness required.*

(1) *Board approval required.* No building or structure shall be erected, reconstructed, altered or restored within the Parker-Gray District unless and until an application for a certificate of appropriateness shall have been approved by the ~~Parker-Gray District board of architectural review~~ board of architectural review or the city council on appeal as to exterior architectural features, including signs (see Article IX), which are subject to public view from a public street, way or place, unless the board determines that an alternative type of review is appropriate pursuant to section 10-203(A)(2).

(2) *Administrative approval and exemptions.* The board may determine that certain elements otherwise requiring board approval of a certificate of appropriateness are appropriate for administrative review and approval by the director, or are appropriate for no board review of any type, if, after a public hearing specifically noticed for the purpose, the board adopts specific criteria and guidelines articulating the circumstances and particulars that apply for each type of review and for each building element and documents its determinations in its approved design guidelines. In making such determination, the board shall consider the standards listed in section 10-205. The authority provided in this section (A)(2) is limited to the following types of building elements:

(a) Signs;

(b) Minor architectural elements, such as but not limited to rooftop features; stoops and stairs; porches; yard features and fences; doors and windows; shutters; siding and trim; vents and HVAC equipment; lighting; and residential accessibility structures;

(c) Minor alterations or new construction on a rear building elevation or in the area behind the rear of a building;

(d) Rooftop screening waiver provided in section 6-403; and

(e) Replacement in kind, subject to section 10-209.

(B) *Permit to demolish.*

(1) *Board approval required.* No building or structure within the Parker-Gray District shall be moved, removed, capsulated, or demolished in whole or in part without first obtaining a permit approved by the ~~Parker-Gray District board or architectural review~~ board of architectural review or the city council on appeal, except as provided in section 10-211, except for demolitions of portions of buildings resulting in the removal of less than 25 square feet total of exterior wall, roof or surface which shall be deemed an alteration and subject to section 10-203(A), or unless the board determines that an alternative type of review is appropriate pursuant to subsection (2) of this subsection (B).

(2) *Administrative approval and exemptions.* The board may determine that certain elements otherwise requiring board approval of a permit for removal, capsulation or demolition are appropriate for administrative review and approval by the director, or are appropriate for no

board review of any type, if, after a public hearing specifically noticed for the purpose, the board adopts specific criteria and guidelines articulating the circumstances and particulars that apply for each type of review and for each building element and documents its determinations in its approved design guidelines. In making such determination, the board shall consider the standards listed in section 10-205. The authority provided in this section is limited to the demolition of the following building elements:

- (a) Fences;
- (b) Accessibility structures;
- (c) 250 square feet of wall area on a rear building elevation; and
- (d) 100 gross square feet of floor area on a rear building elevation or in the area behind the rear of a building.

(3) *Denial of permits*. The board of architectural review, the director in an administrative case, or the city council on appeal may refuse such permit for any building or structure of such architectural or historic interest, the moving, removing, capsulating or demolition in whole or in part of which, in the opinion of the board, the director, or the city council on appeal, would be detrimental to the public interest of the city.

(C) *Applications for certificates of appropriateness and permits*. Applications for certificates of appropriateness required by section 10-203(A) or permits required by section 10-203(B) shall be made to the director by the owner or authorized agent of the owner of the subject property.

10-204 - ~~Board of architectural review.~~ Board of architectural review.

The board of architectural review, section 10-400, administers the Parker-Gray District.

~~(A) Board of architectural review established. There is hereby established the Parker-Gray District board or architectural review to be composed of seven members.~~

~~(B) Powers and duties. The board of architectural review shall:~~

~~(1) Develop and recommend to city council the adoption of rules, regulations and procedures pursuant to section 9.09(j) of the city charter.~~

~~(2) Develop, adopt and publish criteria and guidelines, within the standards developed by city council under section 10-205, to be considered in granting or denying certificates of appropriateness and permits to move, remove, capsulate or demolish in whole or in part, provided that such criteria and guidelines shall be consistent with the provisions of this Article X and with such standards, rules, regulations, and procedures as city council may establish pursuant to section 9.09(j) of the city charter.~~

~~(3) Develop, adopt and publish administrative procedures which shall be as uniform as practicable and shall not be in conflict with the procedures established in this Article X.~~

~~(4) Be responsible for making effective the provisions of section 10-200 with respect to the Parker-Gray District.~~

~~(C) Composition. The Parker-Gray District board or architectural review shall be composed of seven members who are residents of the city and have resided in the city for at least one year immediately preceding their appointment. Two members shall be architects. Members shall have a demonstrated interest, experience, or education in history, architecture or historic preservation. Consideration should be given to qualified applicants who are property owners, residents or business owners in the Parker-Gray historic district. The members shall be appointed by city council for terms of three years. The term of each member shall run from July 1 of the year of appointment. Any vacancy shall be filled for the balance of the unexpired term. Any member of~~

~~the Parker Gray District board or architectural review may be removed by city council for cause after having been given a written statement of the cause and an opportunity to be heard thereon.~~

~~(D) *Conflicts of interest.* Each member of the board of architectural review shall be under a continuous duty to remain conscious of and sensitive to any possible conflict of interest which may arise by virtue of his membership on the board. A member, promptly upon his determining he has a conflict of interest relative to any matter brought, shall disqualify himself from participating in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such matter. The State and Local Government Conflicts of Interest Act, section 2.1-639.1 et seq. of the Code of Virginia, shall, where applicable, control the actions of all members of the board.~~

~~(E) *Chairman and secretary.* The Parker Gray District board or architectural review shall elect its chairman from its membership and the director or his designee or designees, shall be the board's secretary.~~

~~(F) *Procedure for meetings.*~~

~~(1) The chairman of the board of architectural review shall conduct its meetings and the secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote, and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within 40 days after a complete application for a certificate of appropriateness or permit requiring action by the board has been received by the director. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. No proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it no later than at its next regularly scheduled meeting, not to exceed 60 days, after the conclusion of the public hearing on the matter unless the time is extended by mutual agreement between the board and the applicant; the failure of the board to vote and announce its decision within the required time, or within such longer period of time extended by mutual agreement between the board and the applicant, shall constitute approval of the application. Notwithstanding the provisions stated above, an application for a certificate of appropriateness or antecedent permit for a project which requires a site plan under section 11-400 of this ordinance shall be heard and determined by the board within a reasonable time.~~

~~(2) No application for a certificate of appropriateness required by section 10-203(A) which has been denied by the board of architectural review shall be heard again by it within one year of the date of its denial of the application, except under such terms and conditions as shall be established by the board, within the scope of section 10-205, for rehearing the application at the time of its denial of same.~~

~~(3) In case of a disapproval of the moving, removing, capsulating or demolition in whole or in part of a building or structure in the Parker Gray District, the board of architectural review shall state its reasons therefor in writing in some detail. No application for a permit required by section 10-203(B) which has been denied shall be heard again within one year from the date of the denial of the application.~~

~~(4) If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to move, remove, capulate or demolish in whole or in part, the board of architectural review shall forward its reasons in writing to the council.~~

~~(5) The board of architectural review may establish its own rules of procedure for the conduct of its meetings provided that such rules are not in conflict with procedures established in section 9.09(j) of the city charter or this Article X.~~

~~(G) *Notice of hearing on permits.* No application for a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part in the Parker-Gray District shall be considered unless and until the secretary to the board of architectural review has given notice of the proposed hearing before the board according to the provisions of section 11-300.~~

10-205 - Matters to be considered in approving certificates and permits.

(A) *Certificate of appropriateness.*

~~(1) *Scope of review.* The Parker-Gray District board or architectural review board of architectural review or the city council on appeal shall limit its review to exterior features subject to public view and shall determine the compatibility of proposed construction, reconstruction, alteration, restoration of buildings or structures within the Parker-Gray District based upon compatibility with other buildings or structures on the same block face, the block face across the public street, or the immediate surrounding area within the district.~~

~~(2) *Standards.* The board of architectural review, or the city council on appeal, shall consider the following in passing upon the appropriateness of proposals within the Parker-Gray District:~~

~~(a) For new buildings and additions to existing buildings:~~

~~(1) Height of the roofline along the street or public way;~~

~~(2) Scale and mass of the building on the site;~~

~~(3) Placement of the building on the site;~~

~~(4) Material, texture and color;~~

~~(5) Architectural style where there is a predominant style on the block face;~~

~~(6) Architectural details, including signs, subject to public view from the public street or public way;~~

~~(7) Architectural classification based on age of building or structure; and~~

~~(8) Hierarchy of building elevation based on the location of the new construction on the front (street facing), side (non-street facing) or rear elevation.~~

~~(b) For modifications to existing buildings:~~

~~(1) The degree to which the distinguishing original qualities or character of a building, structure, or site including historic materials are retained;~~

~~(2) The historic appropriateness of any new features;~~

~~(3) The compatibility of proposed alterations with other buildings on the block face or block face across the street, giving consideration to building size, shape, roofline, color, materials, texture, nature of openings, and architectural details;~~

~~(4) Architectural classification based on age of building or structure; and~~

~~(5) Hierarchy of building elevation based on the location of the alteration on the front (street facing), side (non-street facing) or rear elevation.~~

~~(c) The extent to which the buildings or structures in sections 10-205(A)(2)(a) and (b) above will promote the general welfare of the city and all citizens by the preservation and protection of the neighborhood.~~

~~(B) *Permit to move, remove, capsulate or demolish in whole or in part buildings or structures.* The Parker-Gray District board or architectural review board of architectural review or the city council on appeal shall consider any or all of the following criteria in determining whether or not~~

to grant a permit to move, remove, capsule or demolish in whole or in part a building or structure within the Parker-Gray District.

- (1) Is the building or structure of such architectural or historic interest that its removal would be to the detriment of the public interest?
- (2) Is the building or structure of such interest that it could be made into an historic shrine?
- (3) Is the building or structure of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?
- (4) Would retention of the building or structure help preserve and protect an historic place or area of historic interest in the city?
- (5) Would retention of the building or structure promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the city a more attractive and desirable place to live?
- (6) Would retention of the building or structure help maintain the scale and character of the neighborhood?

10-206 - Issuance, expiration and procedures for certificates of appropriateness or permits.

(A) *Issuance.*

- (1) Upon approval by the ~~Parker Gray District board of architectural review~~ board of architectural review of any erection, reconstruction, alteration or restoration, a certificate of appropriateness, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 10-207, shall be made available to the applicant.
- (2) Upon approval by the ~~Parker Gray District board of architectural review~~ board of architectural review of any application to move, remove, capsule or demolish in whole or in part, a permit for same, signed by the secretary of the board of architectural review and bearing the date of issuance, but subject, however, to the provisions of section 10-207, shall be made available to the applicant.
- (3) In instances where the city council on appeal approves any erection, reconstruction, alteration or restoration, or where the city council on appeal approves the moving, removing, capsulating or demolition in whole or in part, a certificate of appropriateness or a permit to move, remove, capsule or demolish in whole or in part bearing the date of issuance but subject, however, to the provisions of section 10-207(B), shall forthwith be signed by the mayor and made available to the applicant.

(B) *Expiration.* Any certificate of appropriateness issued pursuant to section 10-206(A) and any permit to move, remove, capsule or demolish in whole or in part issued pursuant to section 10-206(A) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12-month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article X shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a development special use permit or site plan under section 11-400 of this

ordinance, the period of validity shall be coincident with the validity of the development special use permit or site plan as determined pursuant to section 11-418 of this ordinance.

(C) *Procedures for administrative certificates of appropriateness or administrative permits to demolish.* An applicant for an administrative certificate of appropriateness or administrative permit to demolish shall file an application with the director on such forms and subject to such procedures as the director may establish.

(1) As an alternative to administrative approval, the applicant may choose to seek board of architectural review approval.

(2) The director may determine that administrative approval, although permitted under section 10-203, is not appropriate and that the board of architectural review approval shall be required.

(3) The director shall post all administrative decisions made under the authority of section 10-203 on the Internet promptly in order that the public is made aware of administrative decisions.

(4) Administrative certificates of appropriateness or administrative permits to demolish shall be signed by the director but shall otherwise follow the same procedures for issuance and expiration as provided for in this section 10-206.

10-207 - Appeals.

(A) *Appeal of administrative decision to board of architectural review.*

(1) A person aggrieved by an administrative decision made pursuant to the authority of section 10-203 may file an appeal with the director within 14 days of the day of the administrative decision.

(2) An appeal shall be docketed within a reasonable time for a public hearing before the board and the board shall review the matter de novo.

(3) The appeal provided in this section 10-207(A), together with the appeals provided under this section 10-207(B) and (C), shall be the exclusive remedy and procedure for challenging an administrative decision made pursuant to section 10-203.

(B) *Appeal to city council.*

(1) Whenever the ~~Parker Gray District board or architectural review~~ board of architectural review shall disapprove an application for a certificate of appropriateness or an application for a permit to move, remove, capsulate or demolish in whole or in part, the applicant for such certificate or for such permit shall have the right to appeal to and be heard before the city council; provided, that the applicant files with the clerk of the city council, on or before 14 days after the decision of the board of architectural review, a notice in writing of the applicant's intention to appeal. Upon receipt of such notice, the clerk of the city council shall schedule a public hearing before the city council to be held within 75 days after the receipt by the clerk of such notice, but no such hearing shall be had unless and until notice pursuant to section 11-302(A) has been given. Each such notice of appeal shall be accompanied by the fee prescribed pursuant to section 11-104.

(2) Whenever the ~~Parker Gray District board or architectural review~~ board of architectural review shall approve an application for a certificate of appropriateness or an application for a permit to move, remove, capsulate or demolish in whole or in part, opponents to the granting of such certificate or of such permit shall have the right to appeal to and be heard before the city council; provided, that there is filed with the clerk of the city council, on or before 14 days after the decision of the board of architectural review, a petition in writing signed by the

city manager or at least 25 persons owning real estate within the Parker-Gray Historic District indicating their intention to appeal and the basis of that appeal. Upon receipt of such notice, the clerk of the city council shall schedule a public hearing before the city council at a time not less than 30 days after the receipt by the clerk of such notice, but no such hearing shall be had unless and until notice pursuant to section 11-302(A) has been given. Each such notice of appeal shall be accompanied by the fee prescribed pursuant to section 11-104.

(3) On any such appeal, the decision of the ~~Parker-Gray District board or architectural review board of architectural review~~ appealed from shall be stayed pending the outcome of the appeal before the council. The council shall conduct a full and impartial public hearing on the matter before rendering any decision. The same standards shall be applied by the council as are established for the ~~Parker-Gray District board or architectural review board of architectural review~~. The council may affirm, reverse or modify the decision of the board, in whole or in part. The decision of the council, subject to the provisions of section 10-207(B), shall be final.

(C) *Appeal from city council to court.* Any applicant or any of the petitioners aforesaid aggrieved by a final decision of the city council shall have the right to appeal such decision to the circuit court for a review; provided, such appeal is filed within a period of 30 days after the rendering of the final decision by the city council. Such appeal shall be taken by filing a petition, at law, to review the decision of council, and the filing of such petition shall stay the council's decision pending the outcome of the appeal to the court. Findings of fact by the council shall be conclusive on the court in any such appeal. The court may reverse or modify the decision of the council, in whole or in part, if it finds upon review that the decision of the council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of council.

10-208 - Additional or concurrent right to move, remove, capsulate or demolish in whole or in part buildings or structures.

(A) *Right to move, remove, capsulate or demolish in whole or in part buildings or structures if conditions are met.* In addition to the right of appeal hereinabove set forth, the owner of a building or structure, the moving, removing, capsulating, or demolition in whole or in part of which is subject to the provisions of this Article X, shall, as matter of right, be entitled to move, remove, capsulate, raze or demolish in whole or in part such building or structure provided, that:

(1) The owner has applied to the ~~Parker-Gray District board or architectural review board of architectural review~~ for such right and has also been a party to an appeal from the board's decision to the council.

(2) The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value made a bona fide offer to sell such building or structure and the land pertaining thereto to any person, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.

(3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the

bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after a final decision by the city council. The time schedule for offers to sell shall be as follows:

- (a) 3 months when the offering price is less than \$25,000.00;
- (b) 4 months when the offering price is \$25,000.00 or more but less than \$40,000.00;
- (c) 5 months when the offering price is \$40,000.00 or more but less than \$55,000.00;
- (d) 6 months when the offering price is \$55,000.00 or more but less than \$75,000.00;
- (e) 7 months when the offering price is \$75,000.00 or more but less than \$90,000.00;
- (f) 12 months when the offering price is \$90,000.00 or more.

(B) *Bona fide offer to sell.*

(1) *Notice.* Before making a bona fide offer to sell as provided for in section 10-208(A), an owner shall first file a statement with the director. The statement shall identify the property, state the offering price, the date the offer of sale is to begin and name the real estate agent, if any. No time period set forth in the schedule contained in section 10-208(A) shall begin to run until the statement has been filed. Within five days after receipt of a statement the director shall mail a copy of the statement to the mayor, the city council, the city manager and subscribers to the notice provided for in section 10-212. Such offer to sell shall be advertised in a newspaper of general circulation in the city.

(2) *Question as to price.* The fact that an offer to sell a building or structure is at a price reasonably related to fair market value may be questioned, provided there is filed with the city manager, on or before 15 days after the offer for sale has begun, a petition in writing signed by at least 25 persons owning real estate located within the Parker-Gray District. Upon the receipt of such petition, the city manager shall, at city expense, forthwith appoint three disinterested real estate appraisers, familiar with property values in the Parker-Gray District, who shall forthwith make an appraisal of the building or structure in question and forthwith file a written report with the city manager whether or not in their opinion the offer to sell the building or structure is at a price reasonably related to its fair market value. The opinion of any two of the three appraisers shall be binding and final. In the event the opinion is to the effect that the offer to sell the building or structure is at a price reasonably related to its fair market value, the owner may continue pursuant to section 10-208(A) as if no question has been raised. In the event the opinion is to the effect that the offer to sell the building or structure is not at a price reasonably related to its fair market value, the offer to sell shall be void and of no force and effect, and the owner, if he wishes to take advantage of the additional or concurrent right provided for in section 10-208(A), must file the notice provided for in section 10-208(B) and proceed in accord with section 10-208(A). Notwithstanding an adverse opinion by the appraisers, if an owner has entered into a binding bona fide contract as provided for in section 10-208(A) prior to the date the appraisers have filed their report with the city manager, the price shall be deemed reasonably related to fair market value.

10-211 - Order of demolition for unsafe buildings.

Nothing in this Article X shall apply to or in any way prevent the moving, removing, capsulating or demolition in whole or in part of any building or structure in the city which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the code or

building official, provided that before a moving, removing, capsulating or demolition in whole or in part can be ordered by the code or building official when the code or building official determines that such dangerous, hazardous or unsafe condition could reasonably be expected to cause death or serious physical harm before review under the provisions of this Article X could be accomplished, the code or building official shall have first delivered a copy of the proposed order to the city manager, to the chairman and vice chairman of the ~~Parker-Gray District board of architectural review~~ board of architectural review and mailed to the subscribers provided for in section 10-212 a copy of the proposed order.

Section 8. That Section 10-300 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

Sec. 10-300 - Preservation of certain buildings and structures over 100 years old outside the Old and Historic Alexandria District and the Parker-Gray District.

10-304 - Certificate of appropriateness required.

(A) No building or structure subject to the provisions of section 10-300 shall be reconstructed, altered or restored unless and until an application for a certificate of appropriateness shall have been approved by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal as to exterior architectural features which are subject to public view from a public street, way or place. Evidence of such required approval shall be by a certificate of appropriateness issued by the board or the city council on appeal.

(B) Applications for certificates of appropriateness shall be made to the director.

(C) The matters that the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal shall consider in determining whether a certificate of appropriateness should be issued shall be those guidelines established in the ordinance listing the building or structure for preservation and the criteria set forth in section 10-105(A).

10-305 - Permit for moving, removing, capsulating or demolition in whole or in part required.

(A) No building or structure subject to the provisions of this section 10-300 shall be moved, removed, capsulated or demolished in whole or in part without first obtaining a permit approved by the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal, and the board or the city council may refuse such permit for any building or structure of such architectural or historic interest, the removal of which, in the opinion of the board or the city council on appeal, would be detrimental to the public interest of the city.

(B) Applications for permits to move, remove, capsulate or demolish in whole or in part shall be made to the director.

(C) The matters that the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review or the city council on appeal shall consider in determining whether a permit to move, remove, capsulate or demolish in whole or in part should be issued shall be

those guidelines established in the ordinance listing the building or structure for preservation and the criteria set forth in section 10-105(B).

~~10-308 - Old and Historic Alexandria District board of architectural review. Board of architectural review.~~

~~The board of architectural review, section 10-400, administers the 100 Year Old Building List.~~

~~(A) For purposes of this section 10-300, "Old and Historic Alexandria District board of architectural review" shall refer to the Old and Historic Alexandria District board of architectural review constituted by section 10-104.~~

~~(B) For the purposes of this section 10-300, the procedure for meetings of the Old and Historic Alexandria District board of architectural review shall be the same as specified in section 10-104.~~

10-309 - Appeals.

(A) *Appeal to city council.*

(1) Whenever the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review shall disapprove an application for a certificate of appropriateness as prescribed by section 10-304, or whenever the board shall disapprove an application for a permit to move, remove, capsulate or demolish in whole or in part a building or structure listed for preservation as prescribed by section 10-305, the applicant for such certificate or for such permit shall have the right to appeal as specified in section 10-107(A)(1).

(2) Whenever the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review shall approve an application for a certificate of appropriateness as prescribed by section 10-304, or whenever the board shall approve an application for a permit to move, remove, capsulate or demolish in whole or in part a building or structure as prescribed by section 10-305, opponents to the granting of such certificate or of such permit shall have the right to appeal and be heard before the city council; provided, that there is filed with the clerk of the city council on or before 14 days after the decision of the board a petition in writing signed by the city manager or at least 25 persons owning real estate within the City of Alexandria indicating their intention to appeal. Except as provided in this section 10-309, the appeal procedures set forth in section 10-107(A)(2) shall be applicable to any appeal from the decision of the board granting a certificate of appropriateness in conjunction with, or a permit to move, remove, capsulate or demolish in whole or in part, a building or structure over 100 years old listed for preservation as prescribed by section 10-304(D).

(B) *Appeal from city council to court.* Any applicant or any of the parties to an appeal as specified in section 10-309(A) aggrieved by a final decision of the city council shall have the right of appeal to the circuit court for review as provided for in section 10-107(B).

10-313 - Order of demolition for unsafe buildings.

Nothing in this Article X shall apply to or in any way prevent the razing of any building or structure in the city which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the code or building official; provided that before a razing can be ordered

by the code or building official when the code or building official determines that such dangerous, hazardous or unsafe condition could reasonably be expected to cause death or serious physical harm before review under the provisions of this Article X could be accomplished, the code or building official shall have first delivered a copy of the proposed order to the city manager and the chairman and vice chairman of the ~~Old and Historic Alexandria District board of architectural review~~ board of architectural review and mailed to the subscribers provided for in section 10-314 a copy of the proposed order.

Section 9. That Section 10-400 of the Zoning Ordinance be, and the same hereby is, added by inserting the language shown:

10-400 – Board of architectural review.

10-401 – Authority and establishment.

(A) Board of architectural review established. There is hereby established the board of architectural review to be composed of seven members.

(B) Powers and duties. The board of architectural review shall:

(1) Develop and recommend to city council the adoption of rules, regulations and procedures pursuant to section 9.09(j) of the city charter.

(2) Develop, adopt and publish criteria and guidelines, within the standards developed by city council under sections 10-105 and 10-205, to be considered in granting or denying certificates of appropriateness and permits to move, remove, capulate or demolish in whole or in part, provided that such criteria and guidelines shall be consistent with the provisions of this Article X and with such standards, rules, regulations, and procedures as city council may establish pursuant to section 9.09(j) of the city charter.

(3) Develop, adopt and publish administrative procedures which shall be as uniform as practicable and shall not be in conflict with the procedures established in this Article X.

(4) Be responsible for making effective the provisions of sections 10-100, 10-200 and 10-300 with respect to the Old and Historic Alexandria District, the Parker-Gray District and the building and structures on the 100 year old buildings list.

(C) Composition. The board of architectural review shall be composed of seven members who are residents of the city and have resided in the city for at least one year immediately preceding their appointment. Preference may be given to property owners in the two historic districts or owners of a listed 100 year old building. One member shall be a property owner in the Old and Historic Alexandria District and one member shall be a property owner in the Parker-Gray District. Two members shall be architects. All members shall have a demonstrated knowledge, professional experience, or education in history, architecture, architectural history, historic preservation, planning, real estate, or building construction. The members shall be appointed by city council for terms of three years. The term of each member shall run from July 1 of the year of appointment. Any vacancy shall be filled for the balance of the unexpired term. Any member of the board of architectural review may be removed by city council for cause after having been given a written statement of the cause and an opportunity to be heard thereon.

(D) Conflicts of interest. Each member of the board of architectural review shall be under a continuous duty to remain conscious of and sensitive to any possible conflict of interest which may arise by virtue of his membership on the board. A member, promptly upon his determining

he has a conflict of interest relative to any matter brought, shall disqualify himself from participating in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such matter. The State and Local Government Conflicts of Interest Act, section 2.2-3100 et seq. of the Code of Virginia, shall, where applicable, control the actions of all members of the board.

(E) *Chairman and secretary.* The board or architectural review shall elect its chairman from its membership and the director or his designee or designees, shall be the board's secretary.

(F) *Procedure for meetings.*

(1) The chairman of the board of architectural review shall conduct its meetings and the secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote, and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within 40 days after a complete application for a certificate of appropriateness or permit requiring action by the board has been received by the director. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. No proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it no later than at its next regularly scheduled meeting, not to exceed 60 days, after the conclusion of the public hearing on the matter unless the time is extended by mutual agreement between the board and the applicant; the failure of the board to vote and announce its decision within the required time, or within such longer period of time extended by mutual agreement between the board and the applicant, shall constitute approval of the application. Notwithstanding the provisions stated above, an application for a certificate of appropriateness or antecedent permit for a project which requires a site plan under section 11-400 of this ordinance shall be heard and determined by the board within a reasonable time.

(2) No application for a certificate of appropriateness required by sections 10-103(A), 10-203(A) or 10-304(A) which has been denied by the board of architectural review shall be heard again by it within one year of the date of its denial of the application, except under such terms and conditions as shall be established by the board, within the scope of sections 10-105 and 10-205, for rehearing the application at the time of its denial of same.

(3) In case of a disapproval of the moving, removing, capsulating or demolition in whole or in part of a building or structure in the Old and Historic Alexandria District, the Parker-Gray District, or on the 100 year old buildings list, the board of architectural review shall state its reasons therefor in writing in some detail. No application for a permit required by section 10-103(B), 10-203(B) or 10-305 which has been denied shall be heard again within one year from the date of the denial of the application.

(4) If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part, the board of architectural review shall forward its reasons in writing to the council.

(5) The board of architectural review may establish its own rules of procedure for the conduct of its meetings provided that such rules are not in conflict with procedures established in section 9.09(j) of the city charter or this Article X.

(G) *Notice of hearing on permits.* No application for a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part in the Old and Historic Alexandria District, the Parker-Gray District or on the 100 year old buildings list shall be considered unless

and until the secretary to the board of architectural review has given notice of the proposed hearing before the board according to the provisions of section 11-300.

Section 10. That Section 11-513 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

11-513 - Administrative special use permit.

The director is authorized to approve the following amendments to special use permits under the following circumstances and procedures:

(N) Specific standards for valet parking.

(3) No structures are permitted in conjunction with a valet parking program, unless associated with a shared parking program among several businesses, and only after the design is reviewed for comment by the ~~Old and Historic Alexandria district~~ board of architectural review.

Section 11. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 12. That Sections 6-403, 7-802, 8-200, 8-602, 9-301, 10-100, 10-200, 10-300, and Section 11-513 and Section 10-400 as new pursuant to Sections 1 through 10 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 13. That this ordinance will permit the appointment of the initial members of the board of architectural review to staggered terms. Of the initial members, two citizen at-large members will be appointed to a one year term; one citizen at-larger member to a two year term, one architect member to a two year term; and three members to three year terms, these member will be a property owner in the Old and Historic Alexandria District, a property owner in the Parker-Gray District, and an architect.

Section 14. That this ordinance shall become effective upon the appointment of the initial members of the board of architectural review.

ALLISON SILBERBERG
Mayor

Final Passage: December 15, 2018