

§ 18-279 Duties of Zoning Administrator Concerning Permits. Upon receipt of the Town Council's written disapproval, the Zoning Administrator shall disapprove the application for the required permit and so advise the applicant. The applicant may appeal from the disapproval as provided by law and § 18-280 herein below.

The Zoning Administrator shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Section in the same manner as in his enforcement of the other Sections of this Chapter as presently enacted and as the same may be amended.

§ 18-280 Appeal To Circuit Court. Any person or persons jointly or severally aggrieved by any decision of the Town Council, or any taxpayer, may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Town Council provided such petition is filed within thirty days after the final decision is rendered by the Council. The filing of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish an historic landmark, building, or structure. The court may reverse or modify the decision of the Town Council in whole or in part if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council. (Amend. 6-84)

§ 18-280.1 Windover Heights Historic District. (New 4/79; Amend 7-6-92)

Purpose. The purpose of this ordinance is to recognize and designate by an overlay to the Zoning Map of the Town of Vienna the Windover Heights Historic District of the Town, which District contains buildings and places in which historic events occurred and which have special public value because of notable architectural features and other features which relate to the cultural and artistic heritage of Vienna, and to provide for the preservation of that District and sites therein; the Town Council recognizing that the District is a single family residential neighborhood which has changed little since the turn of the century, which consists mostly of older homes, open spaces and meandering streets lined with mature trees and shrubs which constitutes one of the original residential sections of historic old Vienna and which housed citizens who were prominent in the development of the Town of Vienna.

§ 18-280.2 Boundaries. (Amend 8/98)

A. The Windover Heights Historic District is hereby created and the boundaries of such district are drawn so as to include all lands closely related to and bearing upon the character of the area known for a long period of time as the "Windover Area," "Windover Heights," or "The Hill."

B. The boundaries of this District shall be as follows: Beginning at the point of intersection of Lawyers Road, NW, and the creek east of Stowe's Addition to Windover Heights, thence southeasterly along the southwesterly right-of-way line of said Lawyers Road, NW, to the southerly line of 210 Lawyers Road, NW; thence westerly along said property line to the westerly line of said parcel; thence northerly along said property line to the southeasterly line of Lovers Lane, NW; thence southwesterly along said right-of-way line to the easterly line of Lot 48, Block 5 of Windover Heights; thence southeasterly along said property line to the southerly line thereof; thence southwesterly along said line and the southerly line of Lots 47 through 40, Block 5, to the westerly line of said Lot 40 of Block 5; thence northwesterly along said property line to the southeasterly line of Lovers Lane, NW; thence southwesterly along said right-of-way line to its point of intersection with the northeasterly line of Pleasant Street, NW; thence southeasterly along said right-of-way line to its point of intersection with the northwesterly line of Lot 34, Block 5, Windover Heights; thence northeasterly along said line to the northeasterly line of said Lot 34; thence southeasterly along said line and the northeasterly lines of Lots 33 through 29 of Block 5 to the northwesterly line of Church Street, NW; thence southwesterly along said right-of-way line to the northeasterly line of Pleasant Street, NW; thence northwesterly along said right-of-way line to the prolongation of the southeasterly line of 130 Pleasant Street, NW, thence southwesterly along said line, also being the boundary between the residential and commercial zones to Lewis Street, NW; thence northwesterly along said Lewis Street to Windover Avenue, NW; thence northeasterly along said Windover Avenue to Knoll Street, NW; thence along the back of those lots on the westerly side of Windover Avenue, NW, to 346 Orchard Street, NW; thence along the westerly boundary of this lot to Orchard Street, NW; thence easterly along said Orchard Street to the rear boundary of 277 Windover Avenue, NW; thence northerly along the rear boundaries of 277 and 261 Windover Avenue, NW, to the rear boundary of 322 West Street, NW; thence westerly along the rear boundary of said lot and the rear property lines of 324 and 326 West Street, NW, to the westerly property line of said 326 West Street, NW; thence northeasterly along the previously-mentioned creek to its intersection with Lawyers Road, NW; said point also being the point of beginning. (New - Amend. 3/18/91; 8/98)

§ 18.280.3 Public Improvements. No new construction projects, the purpose of which shall be the installation of new public improvements and public owned utilities not in existence at the time of the adoption of this ordinance shall be commenced in the Windover Heights Historic District until the Town Council shall first conduct an advertised public hearing concerning the necessity of the improvement, at which hearing the recommendations of the Windover Heights Board of Review, if available, shall be included in the record.

The provisions of this Section shall not be applicable to maintenance or repair of existing public improvements or utilities.

§ 18-280.4 Certification of Appropriateness Required.

A. A Certificate of Appropriateness shall be required before any of the following, except as provided in paragraph B below, may be performed within the District:

1. Erection of a building, accessory building, structure, fence or sign.
2. Changing or altering the exterior architectural character of an existing building, accessory building, or structure to that degree which requires obtaining a building permit.

B. A Certificate of Appropriateness shall not be required in the following cases:

1. Repair or replacement of any part of an existing building. Accessory building, structure, fence or sign when using substantially similar materials and maintaining the same architectural features.
2. Repair or replacement of a roof on an existing building or accessory building even if different colors or materials are used. However, any change to the existing roof line or profile of the roof shall require a Certificate of Appropriateness.
3. Repair or replacement of existing stoops, porches, entryways, windows, or doors; or the repair, replacement or addition of screens, storm doors, or storm windows.
4. Erection of a shed or other accessory structure which does not require a building permit.

5. Construction of an in-ground swimming pool. However, a pool constructed so that any part, excepting handrails or diving boards, is more than 18 inches above ground shall require a certificate of appropriateness.
6. The painting or repainting of an existing building, accessory building, structure, fence or sign.
7. Erection, alteration or reconstruction of buildings, accessory buildings, structures, fences or signs when no part of such improvement is subject to public view at any time of the year from a public street, way or place.

§ 18.280.5 Windover Heights Board of Review, Creation of Board. For the purpose of making effective the provisions of this Section, there is hereby created a Board to be known as the Windover Heights Board of Review.

Membership of Board. The Windover Heights Board of Review shall consist of five (5) members, one (1) registered professional architect whose qualifications are compatible with historic preservation and restoration and who need not be a resident of the Town of Vienna, one (1) member of the Board of Architectural Review, one (1) member of the Planning Commission, one (1) member of the Beautification Commission and one (1) person selected from the community at large. In making all appointments to the Board, the Town Council shall give consideration to persons who have evidenced an interest in and an appreciation for the cultural heritage and history of Vienna. Except for the registered professional Architect, all members of the Board shall be residents of the Town of Vienna. Initially, three (3) members of the Board shall be appointed for a term of one (1) year and two (2) shall be appointed for a term of two (2) years. Thereafter, all appointments to the Board, except for those to fill an unexpired term, shall be for a period of two (2) years. All members shall serve without compensation.

§ 18-280.6 Rules Of The Board.

A. The Board shall elect from its membership a Chairman, and Vice-Chairman, at the first meeting of the Board which shall be within 45 days of adoption of this ordinance and thereafter at the first meeting of each year. The Chairman shall preside over the Board and have the right to vote. The Vice-Chairman shall perform the duties of the Chairman in his absence. An accurate record of the proceedings of the Board shall be kept and a permanent record of all resolutions, motions, transactions and determinations, which records shall be delivered to the Town Clerk within seven (7) days following each meeting and shall be records of the Town.

B. The Board shall hold a regular meeting at least once a month. Special meetings may be held at other times at the call of the Chairman, or two (2) members of the Board. Meetings also shall be called at the direction of the Town Council.

§18-280.7 Procedures For Applications And Review.

A. Applications for a Certificate of Appropriateness shall be made to the office of the Zoning Administrator for the Town of Vienna. The application shall be accompanied by a house location survey or dimensional drawing of the subject property showing the following:

1. The location of all existing buildings, accessory buildings, structures, fences or signs, and any proposed additions or alterations thereto.
2. The location of proposed buildings, accessory buildings, fences or signs to be erected.

B. Upon the filing of an application that complies with the requirements of paragraph A of this section, the Zoning Administrator shall within ten (10) working days thereafter, forward the application, together with his recommendations on the same, to the Windover Heights Board of Review.

C. The Board shall consider the application at the first regular meeting after receipt of the recommendations of the Zoning Administrator.

D. The Windover Heights Board of Review shall approve or disapprove such application forwarded by the Zoning Administrator at that regular meeting, unless time is extended by mutual agreement between the Board and the applicant. If such application is approved, a Certificate of Appropriateness signed by the Chairman or Vice-Chairman, shall be attached to the application for Certificate of Appropriateness and, within two (2) working days, transmitted to the Town of Vienna Zoning Administrator, or designee, for issuance.

E. If the Board disapproves of an application, it shall make findings of fact and state its findings and reasons therefor in writing and transmit a record of same to the Zoning Administrator and to the applicant. If the Board disapproves of an application, it may offer advice regarding appropriate changes that would address identified deficiencies.

§ 18-280.8 Matters To Be Considered By The Board.

A. In its review of any application for a Certificate of Appropriateness, the Windover Heights Board of Review, or the Council, on appeal, shall consider the following aspects of a building, accessory building, structure, fence or sign.

1. Exterior architectural features, including all signs, which are subject to public view at any time of the year from a public street, way or place.
2. General design and arrangement.
3. Texture and material.
4. The relation to similar features of buildings, accessory buildings, structures, fences or signs in the immediate surroundings.
5. Harmony or incongruity with the old and historic aspect of the surroundings.
6. The extent to which historic places and areas of historic interest in the District will be preserved or protected.
7. Special public value because of architectural and other features which relate to the cultural and artistic heritage of the Town of Vienna.

B. The Windover Heights Board of Review shall not consider interior arrangement, or relative size of the building, accessory building, structure, fence or sign.

§ 18-280.9 Exceptions.

Nothing in this ordinance shall be construed to prevent ordinary maintenance and repair or sale of any structure within the District, nor shall anything in this ordinance be construed to prevent the construction, alteration, moving or demolition of any structure under any permit issued prior to the passage of this ordinance.

§ 18-280.10 Appeal To Town Council.

A. Any person or persons jointly or severally aggrieved by any decision of the Board, including any applicant, any citizen of the Town and the Town through its Zoning Administrator, may appeal such decision to the Town Council by filing with the Town Clerk a written request for appeal. Such appeals to be filed within thirty (30) days after the decision has been made by the Board.

B. The Town Council shall within thirty (30) days of receipt of such written request, or within a longer period if agreed upon by the applicant, grant such applicant a full hearing at a public meeting.

C. Within thirty (30) days of such hearing, and after consultation with the Board, the Council may reverse or modify the decision of the Board, in whole or in part, or it may affirm the decision of the Board.

§ 18-280.11 Appeals To Circuit Court.

Any person or persons jointly or severally aggrieved by any decision of the Town Council or any citizen of the Town may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Town Council providing such petition is filed within thirty (30) days after the final decision is rendered by the Council. The filing of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court. The court may reverse or modify the decision of the Town Council in whole or in part, if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion or it may affirm the decision of the Town Council.

§ 18-280.12 Penalty For Violation.

Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00), and each day after the first during which such violation shall continue shall constitute a separate violation.

§ 18.280.13 Validity.

Should any section, clause or provision of this ordinance be declared by the court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.