

ARTICLE 26 DESIGN REVIEW

- Sec. 26.1. Purpose and Intent.
- Sec. 26.2. Definitions.
- Sec. 26.3. Jurisdiction.
- Sec. 26.4. Establishment of Design Review Board.
- Sec. 26.5. Meetings of the Board.
- Sec. 26.6. Authority.
- Sec. 26.7. Design Review Required.
- Sec. 26.8. Exemption for Minor Changes.
- Sec. 26.9. Pre-Application Conference.
- Sec. 26.10. Application Requirements.
- Sec. 26.11. Criteria for Acting on Design Review Applications.
- Sec. 26.12. Action by Design Review Board.
- Sec. 26.13. Changes After Approval.
- Sec. 26.14. Expiration of Design Plan Approval.
- Sec. 26.15. Appeals.
- Sec. 26.16. Enforcement.

Sec. 26.1. Purpose and Intent.

Careful attention to the architectural design of buildings and the layout of development sites is in the economic interests of the city, its citizens, and business owners. Attractive and integrated architectural and site design features tend to improve an area's image, raise overall property values, attract new businesses and residents, and improve the quality of life. Research and experience have shown that there is a positive return on investment for providing attractive design features, for both government and property owners. This Article establishes a design review board and requires review by the design review board of certain architectural and site planning considerations and improvements.

Sec. 26.2. Definitions.

For definitions related to architecture and site design, see Section 2.2 of this Zoning Ordinance. In addition, the following terms are defined in the context of this Article:

Aggrieved party: One who demonstrates that his or her property will suffer special damage as a result of the decision complained of rather than merely some damage that is common to all property owners and citizens similarly situated.

Material change in appearance: A change that will affect the "exterior architectural features" of a structure or site, and which may include any one or more of the following:

- (a) A reconstruction or alteration of the size, shape, or facade, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements;
- (b) Commencement of excavation, grading or site improvement;

- (c) The erection, alteration, restoration, or removal of any building or other structures, including walls, fences, steps, and pavements, or other appurtenant features, except exterior paint alterations.

Sec. 26.3. Jurisdiction.

The Design Review Board created by this Article shall have jurisdiction within the city limits of the City of Forsyth, except where the Historic Preservation Commission has jurisdiction pursuant to a historic preservation ordinance.

Sec. 26.4. Establishment of Design Review Board.

A Design Review Board is hereby established. Said board shall consist of five voting members, who are residents and registered voters of the city, each of whom shall serve for terms of three years without compensation, with initial terms being staggered. Appointments by the Governing Body to the Design Review Board membership shall meet the following minimum specifications for its composition of membership:

- (a) At least one (1) member of the five total members shall be an architect with a current state registration, landscape architect with current registration, or a licensed commercial building contractor.
- (b) One member of the Design Review Board shall be a member of the Planning Commission.
- (c) One member of the Design Review Board shall be a member of the Historic Preservation Commission.

The board members shall be appointed by the Mayor with the approval of the City Council. In case any vacancy should occur in the membership of the board for any cause, the Mayor shall fill such vacancy by making an appointment for the unexpired term with the approval of the City Council. Any members of the board may be removed by the Mayor for due cause or upon expiration of term, subject to the approval of the City Council.

Sec. 26.5. Meetings of the Board.

The Design Review Board shall adopt rules of procedure as are necessary to carry out the purposes of its authority. The Board shall establish a regular meeting date and time for its meetings. However, meetings shall be held only on an as-needed basis. All meetings shall be open to the public. The Board shall appoint a secretary, who shall be the City Clerk unless otherwise designated, to keep a record and minutes of its proceedings, showing the action of each board member upon each question. The Board shall keep records of its examinations and other official actions, all of which shall be filed with the City Clerk and which shall be public records. The Zoning Administrator shall serve as the advisor to the Board.

Sec. 26.6. Authority.

The Design Review Board is authorized to receive, consider, grant, grant with conditions, or deny applications for design review as required by this ordinance. In granting approval of design review, the Board may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those

expressly set forth herein, as may be deemed necessary for the protection of adjacent properties and the public interest. Decisions of the Design Review Board shall be final unless an appeal to the Mayor and City Council is filed no later than thirty (30) days of the decision of the Design Review Board.

Sec. 26.7. Design Review Required.

Design review shall apply to all development, except for single-family detached dwellings within the city limits of the City of Forsyth, within the jurisdiction of the Design Review Board. The Design Review Board shall in individual instances of design review consider and apply, as applicable or appropriate, the development and design guidelines specified in Article 27 of this Zoning Ordinance.

No building, structure, or activity, except for a detached single family dwelling shall be erected, nor shall there be any material change in the exterior appearance of any existing building, structure, or activity except for a detached single family dwelling, until and unless a design review application has been made to the Zoning Administrator and approved by the Design Review Board in accordance with the provisions of this Article, except as otherwise specifically exempted from Board review by this Article. A certificate of design review approval must be issued by the Zoning Administrator (after approval by the Design Review Board, if required) prior to any material change in appearance. No building permit requiring review and approval by the Design Review Board shall be issued by the Zoning Administrator unless it shall have received design review approval from the Design Review Board and a certificate of design review approval has been issued by the Zoning Administrator.

Sec. 26.8. Exemption for Minor Changes.

Where the requested change involves, in the opinion of the Zoning Administrator, a minor change, the Zoning Administrator may vary or waive any of the information requirements of this Article for design review applications. The Zoning Administrator may exempt a minor development or change to an existing development from design review approval, and he or she may exempt a proposed change to an existing building or structure from design review approval, where in his or her judgment, the proposed development or change to existing building or structure meets the spirit and intent of this Article and Article 27 of this zoning ordinance relative to the proposed use. The Zoning Administrator may consult with the chairman of the Design Review Board in making exemptions pursuant to this Section.

Without limiting the generality of this Section, the following (not an inclusive list) are considered minor changes that can be administratively approved by the Zoning Administrator and which shall not require review by the Design Review Board:

- (a) Repainting of an existing building to a similar color.
- (b) Revisions of window or door placement.
- (c) Adding compatible building area up to an additional twenty-five percent (25%) of major design plans originally approved by the Design Review Board.
- (d) Adding compatible landscaping up to an additional twenty-five percent (25%) of major approved design plans originally approved by the Design Review Board.

- (e) An increase or decrease in the number of parking spaces of ten percent (10%) from the number originally approved, provided that the parking lot alteration meets the requirements for parking lot landscaping specified in Article 20 of this Zoning Ordinance.
- (f) Repair or reconstruction of existing freestanding retaining walls, decorative walls, and fences, when repaired or replaced with materials that are the same or substantially similar to those originally approved.
- (g) Modifications to outdoor lighting fixtures involving the replacement of light fixtures, and which may involve an increase in the number of light fixtures at the same or lesser height, provided that the type of lighting and materials used for such light fixtures shall be of the same as or similar to those originally approved, and subject to the provisions of Article 23 of this Zoning Ordinance.
- (h) The relocation of an access driveway or curb cut which does not affect or interfere with the approved placement of buildings or structures, per specifications required by this ordinance, when said requirements are based on traffic safety considerations.
- (i) The addition of a temporary use that is permitted in the zoning district in which the subject property is located.
- (j) Other similar minor changes as determined by the Zoning Administrator with the consent of the Chair of the Design Review Board, or if the Chair is not available within a reasonable period of time which shall be no less than seven (7) calendar days, the Vice Chair or any other member of the Design Review Board authorized to consent to such determinations.

Sec. 26.9. Pre-Application Conference.

All applicants for design review and approval are strongly encouraged but not required to schedule a pre-application conference with the Zoning Administrator. A pre-application conference is a time where applicants can familiarize themselves with the application requirements and processes and gain preliminary input from staff as to the suitability of the proposed material change in appearance. Typically, the Design Review Board is not represented at pre-application conference, although this does not preclude one or more members of the board from attending and participating in a pre-application conference.

Sec. 26.10. Application Requirements.

All applications for design review approval shall be made as required by the Zoning Administrator and shall at minimum contain the following information:

- (a) Elevation drawings and color and material samples. Every application or review involving the construction of a new building or structure and alterations and/or additions to existing structures shall be accompanied by exterior elevation drawings drawn to scale and signed by an architect, engineer or other appropriate professional and submitted in sufficient number of copies as required by the Zoning Administrator. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed change(s) to buildings or structures

and new construction, as applicable. Each application shall also indicate proposed materials, textures and colors and provide samples of materials and colors.

- (b) Photographs. All applications shall be accompanied by photographs of all sides of the existing building(s) or structure(s) affected, and of adjoining properties. Photographs shall be submitted in printed copy and in digital form unless otherwise specified by the Zoning Administrator.
- (c) Site plan and landscaping plan. For every application, a plot plan or site plan drawn to scale shall be submitted which shows all improvements affecting appearances, such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs, lights, and other elements.
- (d) Fee. A fee, as may be established and if required by the Mayor and City Council, shall be submitted for said application.
- (e) Additional information. Any additional information as may reasonably be required by the Zoning Administrator shall be submitted with the application.

A finding of completeness shall be a condition precedent to processing the application.

Sec. 26.11. Criteria for Acting on Design Review Applications.

In passing on applications for design review and approval, the Design Review Board and Zoning Administrator shall consider the appropriateness of any proposed material change in appearance in the context of the following criteria:

- (a) Consistency with any adopted design guidelines for the type of development and/or the proposed use.
- (b) The nature and character of the surrounding areas, and the consistency and compatibility of the proposed application with such nature and character.
- (c) The general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials, and colors of the structure in question and the relation of such elements to similar features of structures in the immediate surrounding area, site, and landscaping.
- (d) The interior arrangement or use having no effect on exterior architectural features shall not be considered.
- (e) Among other grounds for considering a design inappropriate are the following defects: character foreign to the area, arresting and spectacular effects, violent contrasts of material, color, intense or lurid colors, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, and the absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

Sec. 26.12. Action by Design Review Board.

A decision by the Design Review Board on a design review application shall be made within forty-five (45) days from the date a complete application is received. The design review board shall approve the application and direct the Zoning Administrator to issue a certificate of design approval if it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic or architectural significance and value of adjacent and nearby properties, and if the board finds the application is consistent with the criteria for judging applications for design review and approval as established in this Article. The Board may deny an application for a design review and approval when in the opinion of the board such proposed change would be detrimental to the character of the area. In the event the Board rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and the reasons for rejection, in writing, to the applicant. The Board may suggest alternative courses of action it thinks proper and conditionally approve the application if the applicant agrees to the conditions, or the Board may disapprove the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so. The denial of an application for a design review and approval shall be binding on the Zoning Administrator and, in such a case of denial, no building permit shall be issued.

Sec. 26.13. Changes After Approval.

After the issuance of a certificate of design review and approval, no material change in the appearance shall be made or permitted to be made by the owner or occupant thereof, unless and until all requirements of the approval of this Article and this ordinance generally are met.

Sec. 26.14. Expiration of Design Plan Approval.

Approval of a major or minor design plan submitted under provisions of this Article shall expire one (1) year after the date of approval by the Design Review Board or the Zoning Administrator, whichever has final authority, unless the applicant has filed a complete application for a development permit or building permit. Design plan approval shall expire no later than two years following the issuance of a development permit. The applicant may revive any design plan approval that has expired by reapplying in the same manner described in this Article for new design plan applications.

Sec. 26.15. Appeals.

Any person adversely affected by any determination made by the Design Review Board relative to the issuance or denial of a certificate of design review and approval may appeal such determination to the Mayor and City Council. For purposes of this section, an adversely affected person is one who demonstrates that his or her property will suffer special damage as a result of the decision complained of rather than merely some damage that is common to all property owners and citizens similarly situated. The appeal must be filed within thirty (30) days of the decision of the board and must be made by petition delivered to the Zoning Administrator. The appeal shall be on the application exactly as presented to the board. The Mayor and City Council may approve, modify and approve, or reject the determination made by the Board if it finds that the board abused its discretion in reaching its decision. Appeals from decisions of the

Mayor and City Council made pursuant to this section may be taken to superior court of Monroe County in the manner provided by law.

Sec. 26.16. Enforcement.

After a certificate of design review and approval has been issued, the Zoning Administrator shall from time to time inspect the construction approved by such authorization. The city, through the Zoning Administrator or City Attorney, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance, except those changes made in compliance with the provisions of this ordinance, or to prevent any illegal act or conduct with respect to this Article.