

PROGRAMMATIC AGREEMENT
BETWEEN
THE COUNTY OF HENRY
AND
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE RIVERSIDE DRIVE NEIGHBORHOOD MULTI-YEAR
IMPROVEMENT PROJECT

WHEREAS, the County of Henry, Virginia (County) has applied for and shall receive a Community Development Block Grant (CDBG) to address housing needs and minor infrastructure improvements; and

WHEREAS, Congress amended the Housing and Community Development Act of 1974 (HCD Act) in 1981 to give each State the opportunity to administer CDBG funds for non-entitlement areas; and

WHEREAS, in the Commonwealth of Virginia the Department of Housing and Community Development (DHCD) administers CDBG funds from the U.S. Department of Housing and Urban Development (HUD) under the HCD Act; and

WHEREAS, pursuant to 24 CFR Part 58, states administering the CDBG program have the responsibility of ensuring that recipient communities comply with applicable State and Federal laws and requirements, including the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and, therefore, DHCD has been invited and has participated in consultation towards this Agreement; and

WHEREAS, CDBG funds will be used for the Riverside Drive Neighborhood Multi-Year Improvement Project, which consists of the rehabilitation of twenty-three home, acquisition, replacement of water and sewer laterals, demolition and clearance of two mobile homes, pedestrian safety improvements, and public park improvements (Undertaking); and

WHEREAS, the County, in consultation with the Virginia Department of Historic Resources, which serves as the Virginia State Historic Preservation Office (SHPO), has established that the Undertaking's Area of Potential Effects (APE), shown in Appendix 1, includes portions of the Bassett Historic District (Historic District), which is eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, the County has determined in consultation with the SHPO that the Undertaking may affect historic properties within the eligible Historic District, per 36 CFR Part 800.5(a) of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the SHPO and the County have agreed, per 36 CFR Part 800.3(g), to compress the steps of the Section 106 process in order to expedite consultation; and

WHEREAS, the County has provided notification to the Advisory Council on Historic Preservation (ACHP) per 36 CFR Part 800.6(a)(1); and the ACHP has elected not/to participate in consultation; and

WHEREAS, PURSUANT TO 36 CFR Part 800.3(f), the County has invited the Bassett Historical Society to participate in consultation; and they have declined; and

WHEREAS, the definitions given in Appendix 2 are applicable throughout this Agreement.

NOW, THEREFORE, the County and the SHPO, agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the Undertaking's effects on historic properties.

STIPULATIONS

The County shall ensure that the following stipulations are met:

I. Guiding Principles

A. In consultation with the SHPO the County shall attempt to meet, when feasible, the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (Appendix 3) for all projects related to this Undertaking that affect a contributing property within the Historic District.

B. The County shall ensure, when feasible, that all CDBG-funded new construction, within the Historic District is compatible with the historic character of the Historic District.

C. The County and the SHPO in order to streamline the Section 106 review process shall emphasize the treatment of exteriors that contribute to the property's potential eligibility for the National Register; may exempt categories of routine activities; and may develop treatment and design protocols for rehabilitation and new construction.

II. Coordination of Review

A. When the County identifies a property that will be affected by the Undertaking, the County shall submit the following documentation to the SHPO for review and comment. If the County disagrees with the SHPO's comments, consultation shall continue until an agreement is reached. If an agreement cannot be reached, consultation shall continue pursuant to Stipulation X, Dispute Resolution.

1. A Project Review Application Form (Appendix 4).
2. A copy of the map in Appendix 1 showing the precise location of the property.
3. Photographs, digital or print, of the building(s)' exterior(s) from the front, back and sides. For new construction projects, photographs of the site and neighboring streetscape.
4. A determination of whether the property contributes to the Historic District as defined by the boundaries on the map (Appendix 1).

B. If any portion of the Undertaking shall result in a cumulative ground disturbance of one (1) acre or greater, the County shall consult with the SHPO and other consulting parties per Stipulation V.

C. If the County determines that a property does not contribute to the eligible Historic District, then the County may proceed with rehabilitation activities on that property but shall continue to consult with the SHPO, per Stipulation II (D), on any new construction at that location.

D. If the County determines that a property contributes to the eligible Historic District, then it must be treated as an historic property for the purposes of Section 106, and the County shall assess the effects of the Undertaking on that property. The County shall prepare the following information based on the type of activity anticipated.

1. Rehabilitation
 - a. Detailed scope of work.
 - b. Plans and drawings, if applicable.
 - c. Materials specification, if applicable.
 - d. Description and photos of architectural features to be repaired or replaced.
2. Demolition
 - a. An explanation of the reasons for demolition.
 - b. Any code enforcement documents that support the necessity of demolition, if applicable.
 - c. A structural evaluation and documentation of the building that supports the necessity of demolition, if applicable.
 - d. Adequate documentation to demonstrate that rehabilitation is not economically or structurally feasible or that retention of the property would jeopardize the implementation of an affordable housing project.
3. New Construction
 - a. Identification of the lot proposed for new construction, including street address and map.
 - b. Plans for exterior elevations.
 - c. Exterior materials specifications.
 - d. Site plan, including the boundaries of the lot and adjacent lots and proposed footprint of new construction.

E. For all rehabilitation and demolition projects on properties considered potentially contributing to the eligible Historic District and all new construction within the eligible Historic District carried out under this Agreement, the County shall submit to the SHPO for review and comment the following information.

1. All documentation prepared pursuant to Stipulation II (A).
2. All necessary documentation prepared pursuant to Stipulation II (D).
3. A determination of whether the proposed treatment meets the Standards or detailed statement as to why the Standards cannot be met. A Standards Checklist form shall be completed for all new construction and rehabilitation projects (Appendix 5).
4. A Finding of Effect (No Adverse Effect or Adverse Effect) based on an application of the Standards and the guidance in 36 CFR Part 800.5.

III. Mitigation

A. If adverse effects are identified during the course of the project, the County shall consult with the SHPO, and other consulting parties, as applicable, to consider possible ways to avoid or minimize the adverse effects. The County shall provide the opportunity for the interested public to express their views on the proposed mitigation measures pursuant to Stipulation IX (B). If the effects cannot be avoided the County shall consult with the SHPO, and any other consulting parties about appropriate mitigation which shall be determined based on the degree of the adverse

effect and the level of significance of the resource. The agreed upon mitigation shall be submitted to the SHPO for review and comment before construction or demolition begins.

B. All mitigation documentation prepared pursuant to this Agreement shall be prepared by a professional in the appropriate discipline who meets the *Secretary of the Interior's Professional Qualification Standards* (36 CFR Part 61).

IV. Emergency Situations

Should a building collapse, be largely destroyed by fire, be substantially damaged by a storm and/or be on the verge of collapse, the County may, per 36 CFR Part 800.12, declare an Emergency Situation and, acting in the interest of public health and safety, propose demolition of a historic property. Upon issuance of the order, the County shall, to the extent possible, document the building and notify the SHPO as soon as possible.

V. Archaeology

A. The County may proceed without archaeological consultation with the SHPO for the following ground-disturbing activities:

1. Any individual activity requiring less than one acre of ground disturbance. The area of potential effect for individual activities shall include all land-disturbing actions associated with site preparation, construction, associated access roads, temporary construction easements, equipment storage areas, staging areas, below ground utilities, etc.
2. The installation of utilities, such as sewer, storm, electrical, gas, steam, compressed air, leach lines, and septic tanks in road rights-of-way, existing utility corridors, or other areas previously disturbed by these activities.

B. Any projects involving ground-disturbing activities within existing archaeological sites or not otherwise exempted under Stipulation V (A), above, shall be submitted to the SHPO, for review and comment through the completion of a Project Review Application Form (Appendix 4).

C. Should the County determine, in consultation with the SHPO, that further archaeological identification is needed; the SHPO shall recommend a program to identify and evaluate archaeological resources.

D. Should the County, as a result of survey efforts and in consultation with the SHPO, determine that an eligible archaeological site will be affected; a plan for its avoidance, protection, or recovery of data will be submitted to the SHPO for review and comment. The County shall consider all comments received in preparing the final treatment plan and shall then implement the plan.

E. All archaeological studies, resulting from this Agreement including data recovery plan(s), shall be performed by an archaeologist meeting the *Secretary of the Interior's Professional Qualifications Standards* (36 CFR Part 61) and in accordance with *The Secretary of the Interior's Standards and Guidelines for Archeological Documentation* (48 FR 44734-37), and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44742, September 29, 1983) (1999, rev. 2003), and shall take into account the ACHP's publications, *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999, updated July 26, 2002), and *Section 106 Archaeology Guidance* (June 2007), or subsequent revisions to these documents.

VI. Review of Documentation

The SHPO and other consulting parties agrees to review documentation submitted pursuant to this Agreement within thirty (30) days after confirmed receipt of complete documentation. If no response is received within thirty (30) days, the County may assume SHPO concurrence with its findings. If the SHPO or other consulting party fails to comment, the Town may assume the non-responding party has no comments. The Town shall take into consideration all comments received within the review period and then proceed to the next step in the process.

VII. Post Review Discoveries

The County shall ensure that construction documents contain the following provisions for the treatment of unexpected discoveries:

A. In the event that a previously unidentified archaeological resource is discovered during ground disturbing activities, the County shall immediately notify the SHPO. All construction work involving subsurface disturbance shall be halted in the area of the resource and in the surrounding area where further subsurface remains can reasonably be expected to occur. The County and an archaeologist, meeting *The Secretary of the Interior's Professional Qualifications Standards* (36 CFR Part 61), immediately will inspect the work site and determine the area and the nature of the affected archaeological property. Construction work may then continue in the project area outside the site area. Within two (2) business days of the original notification of discovery, the County, in consultation with the SHPO, shall determine the National Register eligibility of the resource.

B. Potentially eligible historic properties shall be evaluated using the National Register Criteria for Evaluation in accordance with 36 CFR Part 800.4(c). If the County determines that the resource meets the National Register Criteria for Evaluation (36 CFR Part 60.6), the County shall ensure compliance with 36 CFR Part 800.13(b)(3) of the ACHP's Regulations. The SHPO and other consulting parties agree to provide comments on any treatment plan submitted within two (2) business days of receipt. If the SHPO or other consulting party fails to comment, the County may assume the non-responding party has no comments. The Town shall take into consideration all comments received within the review period and then implement the final plan. Work in the affected area shall not proceed until the development of an appropriate treatment plan; or the determination is made that the located resource is not eligible for inclusion on the National Register.

VIII. Human Remains

The County shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated funerary artifacts. The Town shall treat all human remains and associated funerary artifacts in a manner consistent with the ACHP "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; <https://www.achp.gov/docs.\hrpolicy0207.pdf>).

A. Human remains and associated funerary objects encountered during the course of actions taken as a result of this Agreement shall be treated in the manner consistent with the provisions of the *Virginia Antiquities Act*, Section 10.1-2305 of the *Code of Virginia*, and with the final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia

Register of July 15, 1991. Copies of the above-listed law and regulations are included as Appendix 6.

B. In the event that the human remains encountered are likely to be of Native American origin, whether prehistoric or historic, the County shall immediately notify the Virginia Council on Indians (VCI) and the following Federally recognized Tribes which may have cultural interests in ancestral homelands in Virginia: Catawba Nation, Cherokee Nation, Eastern Band of Cherokee Indians, Shawnee Tribe, Eastern Shawnee Tribe of Oklahoma, and Tuscarora Nation of New York. The treatment of Native American human remains and associated funerary objects will be determined in consultation with the VCI and appropriate Tribal leaders. All reasonable efforts will be made to avoid disturbing Native American gravesites and associated artifacts. To the extent possible, the County shall ensure that the general public is excluded from viewing any Native American gravesites and associated artifacts. No photographs of any Native American gravesites and/or associated funerary objects will be released to the press or to the general public.

C. The County may obtain a permit from the SHPO for the removal of human remains in accordance with the regulations stated above. In reviewing a permit involving removal of Native American human remains, the SHPO will notify and consult with the VCI and appropriate Tribal leaders as required by the regulations stated above.

IX. Public Participation

A. The County shall afford the interested public an opportunity to comment in accordance with the public participation plan approved by DHCD as part of the CDBG grant process.

B. When a finding of adverse effect is made, the County shall solicit public comment regarding the Undertaking's effects on historic properties and the proposed mitigation measures and shall provide copies of those comments to the SHPO.

X. Dispute Resolution

A. Should any party to this Agreement object in writing to the County regarding any action carried out or proposed with respect to the Undertaking or implementation of this Agreement, the County shall consult with the objecting party to resolve the objection. If after initiating such consultation the County determines that the objection cannot be resolved through consultation, the County shall forward all documentation relevant to the objection to the ACHP, including the County's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options.

1. Advise the County that the ACHP concurs in the County's proposed response to the objection, whereupon the agency will respond to the objection accordingly;
2. Provide the County with recommendations, which the County shall take into account in reaching a final decision regarding its response to the objection; or
3. Notify the County that the objection will be referred for comment pursuant to 36 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The County shall take the resulting comment into account in accordance with 36 CFR Part 800.7(c)(4) and Section 110(l) of NHPA.

Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the County may assume the ACHP's concurrence in its proposed response to the objection.

The County shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the County's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

B. At any time during implementation of the measures stipulated in this Agreement, should an objection pertaining to this Agreement or the effect of any individual project on historic properties be raised by a member of the public, the County shall notify the parties to this Agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this Agreement to resolve the objection.

XI. Amendment and Termination

A. Any signatory to this Agreement may request that it be amended, whereupon the signatories shall consult in accordance with 36 CFR Part 800. to consider such an amendment. All signatories to this Agreement must agree to the proposed amendment in accordance with 36 CFR800.6(c)(7). The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.

B. If the County determines that it cannot implement the terms of this Agreement, or if the SHPO determines that the Agreement is not being properly implemented the County or the SHPO may propose to the other parties that it be terminated.

C. Termination shall include the submission of any outstanding documentation on any work done up to and including the date of termination.

D. A party proposing to terminate this Agreement shall so notify all parties to the Agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.


E. Should such consultation fail and the Agreement be terminated, the County shall comply with 36 CFR Parts 800.3 through 800.6 with regard to the individual projects covered by this Agreement.

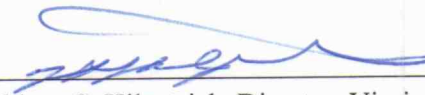
XII. Duration of the Agreement

This Agreement shall continue in full force and effect until five (5) years after the date of the last signature. At any time in the sixth-month period prior to such date, the County may request the SHPO to consider an extension or modification of this Agreement. No extension or modification shall be effective unless the signatories to the Agreement have agreed with it in writing.

Execution of this Programmatic Agreement and implementation of the provisions herein shall be evidence that the County and the Federal and State agencies have satisfied their Section 106 responsibilities for all individual projects subject to the review of this Agreement.

SIGNATORIES

By:  Date: 1/7/08
County of Henry, Virginia

By:  Date: 1/14/09
Kathleen S. Kilpatrick, Director, Virginia Department of Historic Resources
and Virginia State Historic Preservation Officer

APPENDICES

Appendix 1: Map of the Project Area/APE

Appendix 2: Definitions

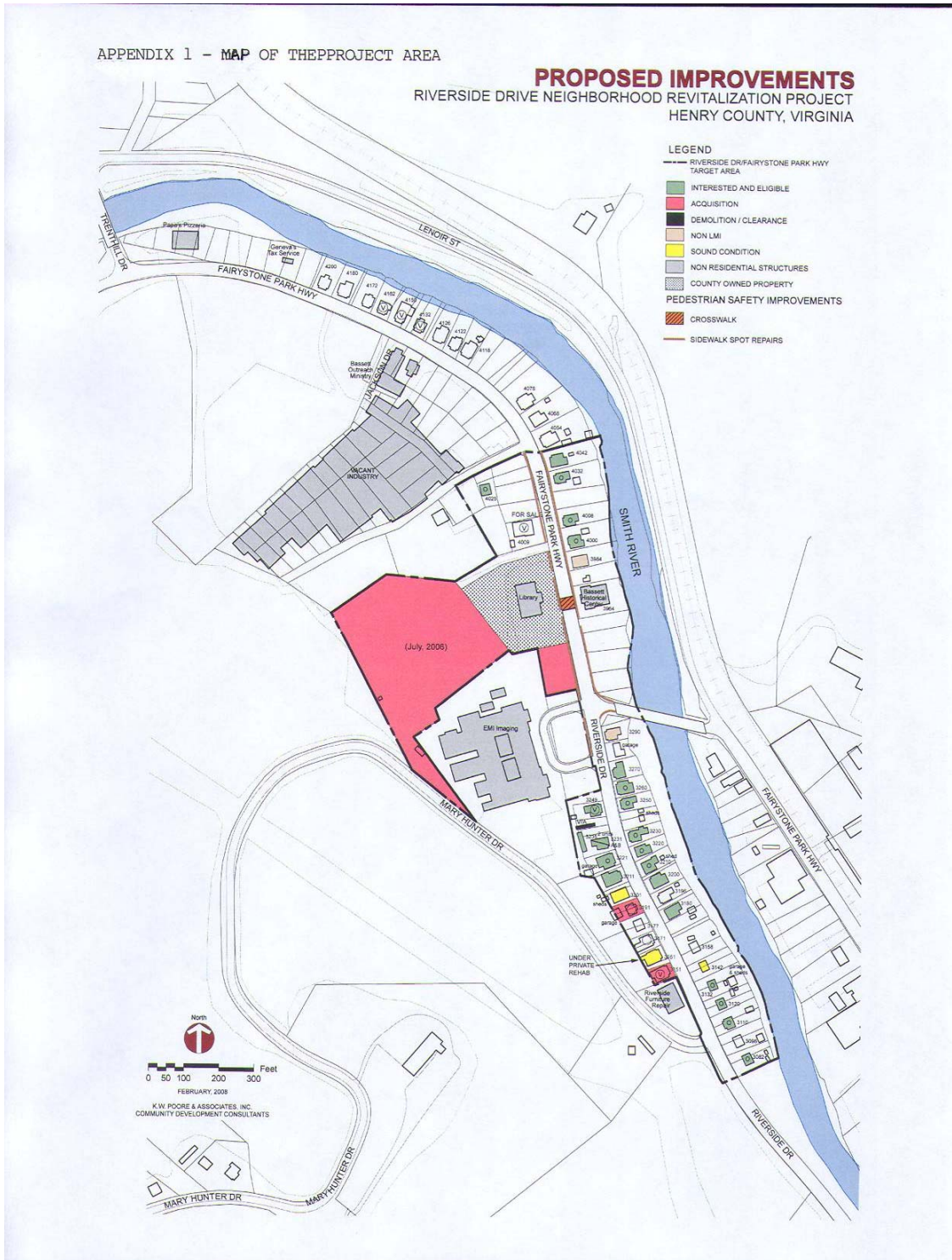
Appendix 3: Secretary of the Interior's Standards for Rehabilitation

Appendix 4: SHPO Project Review Application Form

Appendix 5: Standards Check List Form

Appendix 6: Virginia Laws and Regulations Governing the Treatment of Human Remains

APPENDIX 1 - MAP OF THE PROJECT AREA / APE



APPENDIX 2

DEFINITIONS

AREA OF POTENTIAL EFFECTS – The geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist there. This always includes the actual site of the undertaking, and may also include other areas where the undertaking will cause changes in land use, traffic patterns, or other aspects that could affect historic properties.

ACTIVITY – Work to be performed as an undertaking, specifically defined as one or more of the following:

- ***Acquisition.*** The purchase of a property all or in part with federal funds that will trigger all subsequent activities as undertakings.
- ***Demolition.*** The removal of the majority of an existing building's structure to either the foundation or to property grade.
- ***New Construction.*** The construction of a new building on a vacant lot or site currently occupied by a building. New construction does not attempt to directly replicate buildings that stood on the site and/or incorporate the original building footprint.
- ***Rehabilitation.*** The re-use of an existing historic property that will maintain the majority of the historic features of a building, including such elements: framing, roof structure, doors and door openings, windows and window openings, partitions, trim, chimneys, mantels, and doors in a manner consistent with *The Secretary of the Interior's Standards for Rehabilitation* (1995).
- ***Reconstruction.*** The construction of a new building that replaces a demolished building, follows the majority of the original building footprint, and rebuilds the majority of distinguishing features of the building; or the retention of a minority of an existing buildings' features (such as the façade and foundation) and incorporating these features into a new structure.

CONCURRENCE – A response from the SHPO, in which the SHPO agrees with the determination of the responsible entity.

EFFECT – A determination by the Town and SHPO as to the extent an undertaking will impact a historic property or historic properties. It will include one of the following:

- ***No Effect on Historic Properties.*** There are no historic properties that will be directly or indirectly impacted by the undertaking.
- ***No Adverse Effect on Historic Properties.*** The undertaking impacts a historic property or properties in such a way that the historic character is left intact.
- ***Adverse Effect on Historic Properties.*** The undertaking changes the historic property or properties in such a way that the character of the property is diminished. Demolition of a historic property will constitute an adverse effect. Other activities may or may not constitute an adverse effect depending on their impact on historic properties, a historic property, or historic features.

FEASIBLE – The degree to which a historic property or historic property feature can be successfully preserved. Whether or not something is feasible is essential in the consideration of an adverse effect and application of *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (1995). One or more of the following elements shall be documented and shall be given reasonable consideration by the Town and SHPO in determining whether or not something is feasible:

- The physical condition of a building or building elements;
- The project scope or design constraints; the significance and integrity of the building or building elements;
- The location and setting of the historic property, or economic constraints including rehabilitation costs and market value for resale of a completed project.

HISTORIC PROPERTY – Any property that falls in one or more of the following categories:

- It is a contributing property in a *historic area eligible for listing* in the National Register of Historic Places.
- It is a contributing property in a *historic district listed* in the National Register of Historic Places.
- It is *individually eligible* for listing or is *individually listed* in the National Register of Historic Places.

NON-HISTORIC PROPERTY – Any property that falls into one or more of the following categories:

- Is a *non-contributing property* located in an historic area that is either eligible for listing in the National Register of Historic Places, or is listed in the National Register of Historic Places.
- Is not located within an historic district either eligible for listing or listed on the National Register of Historic Places and is not *individually listed on or eligible for listing* on the National Register of Historic Places.

OBJECTION – A disagreement by the SHPO or a member of the Public with a determination made by the Town on its determination of effect, conditions, or mitigation measures.

MITIGATION – Action to minimize, ameliorate, or compensate for the degradation and/or loss of those characteristics of a property that make it eligible for the National Register.

NATIONAL HISTORIC LANDMARK – A historic property that the Secretary of the Interior has designated a National Historic Landmark.

NATIONAL REGISTER – The National Register of Historic Places maintained by the Secretary of the Interior.

NATIONAL REGISTER CRITERIA FOR EVALUATION – The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association. The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36CFR Part 60). These criteria are used by the Town, SHPO, and Keeper of the National Register to evaluate properties (other than areas of the National Park System and National Historic Landmarks) for the National Register. These criteria are worded in a manner to provide for a wide diversity of resources. The following are the actual National Register Criteria for Evaluation.

Criterion A: Properties that are associated with events that have made a significant contribution to the broad patterns of our history;

Criterion B: Properties that are associated with the lives of persons significant in our past;

Criterion C: Properties that embody the distinctive characteristics of a type, period, or method of construction, that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction;

Criterion D: Properties that have yielded, or may be likely to yield, information important in prehistory or history.

Criteria consideration: Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties shall qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- (a) a religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- (b) a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
- (c) a birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life; or
- (d) a cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- (e) a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- (f) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- (g) a property achieving significance within the past 50 years if it is of exceptional importance.

SECRETARY – The Secretary of the Interior.

STATE HISTORIC PRESERVATION OFFICER – The official appointed or designated pursuant to Section 101 (b)(1) of the Act to administer the State Historic Preservation program or a representative designated to act for the State Historic Preservation Officer. For purposes of this Agreement, the State Historic Preservation Officer shall refer to the Director and staff of the Virginia Department of Historic Resources.

UNDERTAKING – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

APPENDIX 3

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

REHABILITATION IS DEFINED AS *the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.*

A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

1. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
2. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
3. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
4. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
5. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
6. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
7. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
8. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
9. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

REHABILITATION AS A TREATMENT. When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment.

From the National Park Service website, <http://www2.cr.nps.gov/tps/secstan1.htm>.

APPENDIX 4

SHPO PROJECT REVIEW APPLICATION FORM

Project Review Application Form

This application must be completed for all projects that will be federally funded, licensed, or permitted, or that are subject to state review. Please allow 30 days from receipt for the review of a project. All information must be completed before review of a project can begin and incomplete forms will be returned for completion.

I. GENERAL PROJECT INFORMATION

1. Has this project been previously reviewed by DHR? YES ___ NO ___ DHR File # _____

2. Project Name _____

3. Project Location _____
Town Town County

4. Specify Federal and State agencies involved in project (providing funding, assistance, license or permit). Refer to the list of agencies and abbreviations in the instructions.

Lead Federal Agency _____

Other Federal Agency _____

State Agency _____

5. Lead Agency Contact Information

Contact Person _____

Mailing Address _____

Phone Number Fax Number

Email Address _____

6. Applicant Contact Information

Contact Person _____

Mailing Address _____

Phone Number Fax Number

Email Address _____

II. PROJECT LOCATION AND DESCRIPTION

7. USGS Quadrangle Name _____

8. Number of acres included in the project _____

9. Have any architectural or archaeological surveys of the area been conducted? YES ___
NO ___

If yes, list author, title, and date of report here. Indicate if a copy is on file at DHR.

10. Are any structures 50 years old or older within or adjacent to the project area? YES___
NO___

If yes, give date(s) of construction and provide photographs.

11. Does the project involve the rehabilitation, alteration, removal, or demolition of any structure, building, designed site (e.g. park, cemetery), or district that is 50 years or older? If yes, this must be explained fully in the project description. YES___
NO___

12. Does the project involve any ground disturbance (e.g. excavating for footings, installing sewer or water lines or utilities, grading roads, etc.)? If yes, this must be explained fully in the project description. YES___
NO___

13. DESCRIPTION: Attach a complete description of the project. Refer to the instructions for the required information.

To the best of my knowledge, I have accurately described the proposed project and its likely impacts.

Signature of Applicant/Agent

Date

The following information must be attached to this form:

- ____ Completed DHR Archives search
- ____ USGS map with APE shown
- ____ Complete project description
- ____ Any required photographs and plans
- ____

____ No historic properties affected ____ No adverse effect
____ Additional information is needed in order to complete our review.
____ We have previously reviewed this project. A copy of our correspondence is attached.
Comments: _____

Signature _____ Date _____
Phone number _____ DHR File # _____
<i>This Space For Department Of Historic Resources Use Only</i>

APPENDIX 5

STANDARDS CHECKLIST FORM

***Work Write-up and Secretary of the Interior's Standards Check List
for Rehabilitation and New Construction Projects:
Attachment to the Department of Historic Resources
Project Review Application***

Please read the following instructions completely. If incomplete or inaccurate information is provided with your application, delays in review will result.

This form is to be used to indicate whether work to be carried out as part of a proposed project involving preservation, rehabilitation, restoration, or reconstruction will meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. It is also to be used for projects involving new construction, to indicate whether the new construction will be compatible with historic properties that it might affect. Please fill out the form in its entirety. If you check "Modification" under the Proposed Treatment column, you must provide a complete explanation of what that modification will be and why it is the chosen course of action. If that modification does not meet the Standards, you must provide a complete explanation (and, if appropriate, a financial justification) of the economic or design constraints that *preclude* the project from meeting the Standards. The Advisory Council on Historic Preservation has issued a *Policy Statement on Affordable Housing and Historic Preservation* which allows for some flexibility on a case by case basis in the application of the Standards to affordable housing projects. See the Advisory Council's website (www.achp.gov) for the text of the Policy Statement. Attach additional pages as necessary.

This form *must* be accompanied by a completed Project Review Application form. Incomplete information on the Project Review Application or this form will delay our review process and may result in return of the application. A work write-up or scope of work may be provided as well, but cannot be substituted for the attached form. Architectural drawings, showing exterior elevations for new construction and exterior and interior details for rehabilitation, are also required. Please see the instructions accompanying the Project Review Application for additional information. If you have questions about what to submit, please contact the Office of Review and Compliance at (804) 367-2323.

The Secretary of the Interior's *Standards for Rehabilitation* are summarized on the following page. For more information on the Standards and their application, see the web site at <http://www2.cr.nps.gov/tps/standguide/index.htm>. To meet the Standards, work on historic properties must follow guidance in the series of technical information publications prepared by the National Park Service, known as the Preservation Brief series. The Preservation Briefs, listed on Page 3, can be downloaded from the Internet at <http://www.cr.nps.gov/hps/tps/briefs/presbhom.htm>. If Internet access is not available, copies of Preservation Briefs can be obtained from the Department of Historic Resources, by calling 804-367-2323 (please specify which publication is needed, or what topic is being addressed).

Some communities may, in consultation with DHR, develop alternative rehabilitation and/or new construction guidelines for certain historic districts. If DHR has approved the use of alternate guidelines for your community, please make a note on the form which guidelines are being followed and it will be understood that reference to the Standards on the following form will refer to the approved alternate guidelines in place.

Please note that rehabilitation projects may also qualify for federal and/or state historic rehabilitation tax credit programs. For additional information, contact DHR at 804-367-2323, ext. 100, or by e-mail at Kyle.Meyer@dhr.virginia.gov.

MAIL THIS FORM WITH THE PROJECT REVIEW APPLICATION TO:

Virginia Department of Historic Resources

Attention: Project Review

2801 Kensington Avenue, Richmond, VA 23221

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

NATIONAL PARK SERVICE'S PRESERVATION BRIEFS

The following is a list of the Preservation Briefs. Each Preservation brief can be accessed online at the National Park Service's website: <http://www2.cr.nps.gov/tps/briefs/presbhom.htm>. If Internet access is not available, copies of Preservation Briefs can be obtained from the Department of Historic Resources, and printed versions may be purchased from the United States Government Printing Office.

- 01: The Cleaning and Waterproof Coating of Masonry Buildings
- 02: Repointing Mortar Joints in Historic Masonry Buildings
- 03: Conserving Energy in Historic Buildings
- 04: Roofing for Historic Buildings
- 05: The Preservation of Historic Adobe Buildings
- 06: Dangers of Abrasive Cleaning to Historic Buildings
- 07: The Preservation of Historic Glazed Architectural Terra-Cotta
- 08: Aluminum and Vinyl Siding on Historic Buildings: The Appropriateness of Substitute Materials for Resurfacing Historic Wood Frame Buildings
- 09: The Repair of Historic Wooden Windows
- 10: Exterior Paint Problems on Historic Woodwork
- 11: Rehabilitating Historic Storefronts
- 12: The Preservation of Historic Pigmented Structural Glass (Vitrolite and Carrara Glass)
- 13: The Repair and Thermal Upgrading of Historic Steel Windows
- 14: New Exterior Additions to Historic Buildings: Preservation Concerns
- 15: Preservation of Historic Concrete: Problems and General Approaches
- 16: The Use of Substitute Materials on Historic Building Exteriors
- 17: Architectural Character - Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character
- 18: Rehabilitating Interiors in Historic Buildings - Identifying Character-Defining Elements
- 19: The Repair and Replacement of Historic Wooden Shingle Roofs
- 20: The Preservation of Historic Barns
- 21: Repairing Historic Flat Plaster - Walls and Ceilings
- 22: The Preservation and Repair of Historic Stucco
- 23: Preserving Historic Ornamental Plaster
- 24: Heating, Ventilating, and Cooling Historic Buildings: Problems and Recommended Approaches
- 25: The Preservation of Historic Signs
- 26: The Preservation and Repair of Historic Log Buildings
- 27: The Maintenance and Repair of Architectural Cast Iron
- 28: Painting Historic Interiors
- 29: The Repair, Replacement, and Maintenance of Historic Slate Roofs
- 30: The Preservation and Repair of Historic Clay Tile Roofs
- 31: Mothballing Historic Buildings
- 32: Making Historic Properties Accessible
- 33: The Preservation and Repair of Historic Stained and Leaded Glass
- 34: Applied Decoration for Historic Interiors: Preserving Historic Composition Ornament
- 35: Understanding Old Buildings: The Process of Architectural Investigation
- 36: Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes
- 37: Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing
- 38: Removing Graffiti from Historic Masonry
- 39: Holding the Line: Controlling Unwanted Moisture in Historic Buildings
- 40: Preserving Historic Ceramic Tile Floors
- 41: The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront
- 42: The Maintenance, Repair, and Replacement of Historic Cast Stone

WORK WRITE-UP AND STANDARDS CHECK LIST

Property Address : _____

Lead Agency/Contact Person: _____

Program Name: _____

EXTERIOR (FOR BOTH NEW CONSTRUCTION AND REHABILITATION)

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<u>Impact</u>	<u>Description of Modification</u>	
Roof	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Exterior cladding	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Windows	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Doors	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch roof	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch ceiling	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch floor	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	Impact	Description of Modification	
Porch posts	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch railing	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch steps	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Porch other: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Chimney	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Cornice	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Soffit	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Other exterior trim: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

INTERIOR (FOR REHABILITATION PROJECTS ONLY)

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	Impact	Description of Modification	
Floorplan	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Walls	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Floors	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Ceilings	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Stairs	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Door/window trim	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Baseboard trim	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Other trim: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Mantels	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	Impact	Description of Modification	
Paneling	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Other interior architectural detail: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Mechanical systems (HVAC, plumbing, electrical, etc.)	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Other: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

SITE WORK (FOR BOTH NEW CONSTRUCTION AND REHABILITATION)

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	Impact	Description of Modification	
Fences/walls	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Paving (sidewalks, parking, etc.)	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Landscaping	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
Other: (describe) _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

APPENDIX 6

VIRGINIA LAWS AND REGULATIONS GOVERNING THE TREATMENT OF HUMAN REMAINS

Virginia Antiquities Act, Section 10.1-2305 of the Code of Virginia

§ 10.1-2305. Permit required for the archaeological excavation of human remains.

A. It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age of an archaeological site and regardless of ownership without first receiving a permit from the Director.

B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and 57-39. However, such exemption shall not apply in the case of human burials within formally chartered cemeteries that have been abandoned.

C. The Department shall be considered an interested party in court proceedings considering the abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from the Director is required if archaeological investigations are undertaken as a part of a court-approved removal of a cemetery.

D. The Board shall promulgate regulations implementing this section that provide for appropriate public notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific quality of the research conducted on the remains, and the appropriate disposition of the remains upon completion of the research. The Department may carry out such excavations and research without a permit, provided that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.

E. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court. Such appeal must be filed within fourteen days of the Director's decision.

(1989, c. 656.)

Final Regulations Adopted by the Virginia Board of Historic Resources and Published in the Virginia Register of July 15, 1991

17VAC5-20-30. General provisions.

Any person conducting any field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall first obtain a permit from the director.

1. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be conducted without a permit.

2. In cases where a field investigation may reasonably be anticipated to involve the excavation and removal of human remains or associated artifacts, the person conducting such investigation may obtain a permit prior to the actual discovery of human burials.
 3. In any case where human remains are encountered in a field investigation without having received a permit, all work on the burial or burials shall cease until a permit has been obtained.
 4. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be performed except under the supervision and control of an archaeologist meeting the qualifications stated in 17VAC5-20-40.
 5. Any human remains removed in the course of field investigations shall be examined by a skeletal biologist or other specialist meeting the qualifications stated in 17VAC5-20-40.
 6. Any approved field investigation shall include an interim progress report summarizing the field portion of the permitted investigation within 60 days of completion of the removal of all human remains and associated artifacts. Reports indicating progress on analysis and report preparation shall be submitted to the department at 90-day intervals until the final report and disposition are accomplished.
 7. The applicant shall make the site and laboratory available to the department for purposes of monitoring progress and compliance with this chapter as requested by the department.
 8. A copy of the final report including the analysis of materials removed from the burial shall be delivered to the director according to the timetable described in the application.
 9. Documentation of final disposition as required by the permit shall be delivered to the department within 15 days of such disposition.
 10. Work conducted under a permit will not be considered complete until all reports and documentation have been submitted to and reviewed by the department to meet all conditions cited in this chapter or specified as part of an approved permit.
- Failure to complete the conditions of the permit within the permitted time limit may result in revocation of the permit and constitute grounds for denial of future applications.
11. The applicant may apply for an extension or change to the conditions of the permit, including changes in research design, principal personnel or disposition, for good cause. Granting such an extension or alteration will be at the discretion of the director, after consultation with interested parties.

Statutory Authority: §§[10.1-2202](#) and [10.1-2300](#) et seq. of the Code of Virginia.

Historical Notes: Derived from VR390-01-02 §3, eff. August 14, 1991.