

Introduced 10/5/16  
Public Hearing 10/17/16  
Council Action 11/9/16  
Executive Action 11/14/16  
Effective Date 11/14/16

## County Council of Howard County, Maryland

2016 Legislative Session

Legislative Day No. 16

Bill No. 67-2016

Introduced by: The Chairperson at the request of the County Executive

AN ACT providing that certain minor alterations are exempt from the Historic Preservation Commission certificate of approval requirement; defining certain terms; clarifying that there shall be an Executive Secretary of the Historic Preservation Commission; adding that certain landscape features are eligible property for reasons of qualifying for certain tax credits; making certain technical corrections; generally related to Historic Preservation in Howard County; and making this Act an Emergency Bill.

Introduced and read first time October 5, 2016. Ordered posted and hearing scheduled.

By order

Jessica Feldmark  
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on October 17, 2016.

By order

Jessica Feldmark  
Jessica Feldmark, Administrator

This Bill was read the third time on November 9, 2016 and Passed , Passed with amendments , Failed .

By order

Jessica Feldmark  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 10<sup>th</sup> day of November, 2016 at 4 a.m./p.m.

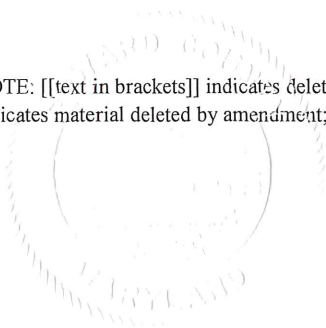
By order

Jessica Feldmark  
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive Nov 14, 2016

Allan H. Kittleman  
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment



1           **WHEREAS**, the County Executive issued Executive Order 2016-05 on July 30, 2016,  
2     declaring a State of Emergency related to a severe flooding event in Howard County on that date;  
3     and

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5           **WHEREAS**, the damage caused by the flooding event will require extensive  
6     reconstruction and repair by multiple businesses, residents, and other property owners located in  
7     the Ellicott City Historic District; and

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9           **WHEREAS**, the reconstruction and repair will necessitate certificates of approval issued  
10    by the Historic Preservation Commission; and

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12          **WHEREAS**, residents, businesses, and other property owners are anticipated to promptly  
13    apply to the County for certain certificates of approval as part of their repair and recovery efforts;  
14    and

15          **WHEREAS**, the County Executive seeks to streamline the process to allow the  
16    Executive Secretary, to determine that certain minor alterations may proceed without a certificate  
17    of approval with a provision for objections, assuming the work is in accordance with the Ellicott  
18    City and Lawyers Hill Historic District Design Guidelines; and

19  
20          **WHEREAS**, allowing certain work to proceed without a certificate of approval is one  
21    way that the County can assist the property owners, residents, and business owners in their  
22    rebuilding efforts and will support and accelerate the recovery of both damaged properties and  
23    affected areas as a whole, and thus is necessary to protect public health, safety, and welfare and  
24    to protect property.

25  
26    ***Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard***  
27    ***County Code is amended as follows:***

28           1. *By amending Title 16 “Planning, Zoning And Subdivisions And Land Development*  
29            *Regulations”*

30            *Section 16.601 “Definitions”*

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32           2. *By amending Title 16 “Planning, Zoning And Subdivisions And Land Development*

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*Regulations”*  
*Section 16.603 “Certificates of approval”*  
*Subsection (b)*

3. *By adding Title 16 “Planning, Zoning And Subdivisions And Land Development Regulations”*  
*Section 16.604 “Historic Preservation Commission”*  
*Subsection (d)*

4. *By amending Title 16 “Planning, Zoning And Subdivisions And Land Development Regulations”*  
*Section 16.606 “Powers of the Commission”*  
*Subsection (f)*

5. *By amending Title 20 “Tax, Charges and Fees”*  
*Section 20.112 “Historically valuable, architecturally valuable, or architecturally compatible structures”*

**Title 16. Planning, Zoning And Subdivisions And Land Development Regulations.**  
**Subtitle 6. Historic Preservation Commission.**

**Section 16.601. Definitions.**

Words and phrases used in this subtitle have their usual meanings except as defined below:

- (a) *Appurtenances and environmental settings* mean walkways and driveways (whether paved or not), trees, waterways and rocks, and landscaping that form part of the setting for a historic structure or use on the same lot.
- (b) *Certificate of approval* means an order issued by the Commission authorizing new construction or alterations to properties within a historic district as provided in this subtitle.
- (c) *Commission* means the Historic Preservation Commission.
- (d) *Contributing structure* means a structure located within a historic district and contributing to the historic or architectural value of the district.

1 (e) *Historic district* means an area in the County which is deemed to be of historic or  
2 architectural value, the boundaries of which shall be established in accordance with the Zoning  
3 Regulations of Howard County as amended from time to time. A multiple site historic district is  
4 any district consisting of more than one property. A single site historic district consists of only  
5 one property.

6 (f) *Historic sites inventory* means the list of historic sites adopted by resolution of the County  
7 Council.

8 (g) *Historic structure* means a structure situated within the County which, together with its  
9 appurtenances and environmental setting, has significant historic or architectural value. *Historic*  
10 *structure* includes a structure listed on the historic sites inventory.

11 (H) *MINOR ALTERATIONS* MEANS THE FOLLOWING EXTERIOR ALTERATIONS, PROVIDED THE  
12 ALTERATIONS COMPLY WITH THE GUIDELINES ADOPTED BY THE COMMISSION PURSUANT TO  
13 SECTION 16.607(D) OF THIS SUBTITLE:

- 14 (1) SIGNS;
- 15 (2) THE REMOVAL OF MATERIALS AND FEATURES THAT ARE NOT IN COMPLIANCE WITH THE  
16 GUIDELINES AND REPLACEMENT WITH MATERIALS AND FEATURES THAT ARE IN  
17 COMPLIANCE WITH THE GUIDELINES;
- 18 (3) THE REPAIR AND REPLACEMENT OF DETERIORATED MATERIALS AND FEATURES WITH  
19 HISTORICALLY APPROPRIATE MATERIALS AND FEATURES INCLUDING, WITHOUT  
20 LIMITATION, SIDING, GUTTERS AND DOWNSPOUTS, ROOFS, CHIMNEYS, PORCHES,  
21 RAILINGS, WINDOWS, DOORS AND PAVING;
- 22 (4) PAINTING, INCLUDING CHANGES OF COLOR;
- 23 (5) THE REMOVAL OF EXTERIOR LIGHT FIXTURES OR THE INSTALLATION OF LIGHT FIXTURES;
- 24 (6) OTHER EXTERIOR MODIFICATIONS INCLUDING, WITHOUT LIMITATION, SHEDS,  
25 MAILBOXES, HOUSE NUMBERS, THE EXTERIOR PLACEMENT OF UTILITIES, AND MINOR  
26 LANDSCAPE FEATURES; OR
- 27 (7) MINOR CHANGES TO PLANS ALREADY APPROVED BY THE COMMISSION.

28 ([[h]]i) *Principal use* or *structure* means the main use of a lot or a structure, as opposed to an  
29 accessory use or structure.

30 ([[i]]j) *Routine maintenance* means work that does not alter the exterior features of a structure  
31 and has no material effect on the historic or architectural significance of the structure.

1 *Routine maintenance* includes:

- 2 (1) Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights,  
3 and other appurtenant fixtures using the same materials and design;
- 4 (2) Minor landscaping which will not substantially affect the character of the structure;
- 5 (3) Paving repair using like materials of like design;
- 6 (4) Painting of previously painted surfaces using the same color; and
- 7 (5) Other minor maintenance and repair work which is described as routine maintenance in  
8 design guidelines approved by the Commission.

9 ([[j]]κ) *Structure* means anything constructed, the use of which requires permanent location on  
10 the ground, or attached to something having permanent location on the ground. *Structure*  
11 includes buildings, porches, decks, awning, fences, gravestones, communication towers, and  
12 streetlights and other exterior lighting fixtures. Street furniture such as benches, newspaper  
13 boxes, and trash receptacles are considered structures if permanently affixed to the ground.  
14 The term *structure* shall be construed as if followed by the words "or part thereof" and to  
15 include the words "appurtenances and environmental settings."  
16

17 **Section 16.603. Certificates of approval.**

18 (b) ~~[[*Routine Maintenance*]]~~EXEMPTIONS. A certificate of approval is not required for ~~[[routine~~  
19 maintenance.]]:

- 20 (1) ROUTINE MAINTENANCE; OR
- 21 (2) MINOR ALTERATIONS THAT ARE DETERMINED BY THE EXECUTIVE SECRETARY OF THE  
22 COMMISSION TO BE CONSISTENT WITH THE GUIDELINES. THE EXECUTIVE SECRETARY'S  
23 DETERMINATION SHALL BE POSTED ON THE COMMISSION'S WEBSITE. THE EXECUTIVE  
24 SECRETARY SHALL NOTIFY EACH COMMISSIONER IN WRITING. IF WITHIN 5 DAYS OF  
25 POSTING ON THE WEBSITE, AND WRITTEN NOTIFICATION TO THE COMMISSIONERS, ANY  
26 PERSON OBJECTS IN WRITING TO THE EXECUTIVE SECRETARY, A CERTIFICATE OF  
27 APPROVAL IS REQUIRED. NOTWITHSTANDING ANY PROVISION OF THIS CODE, THE  
28 DETERMINATION OF THE EXECUTIVE SECRETARY MAY NOT BE APPEALED.

29  
30 **Section 16.604. Historic Preservation Commission.**

1 (D) *EXECUTIVE SECRETARY*. THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING OR  
2 THE DIRECTOR'S DESIGNEE SHALL SERVE AS THE EXECUTIVE SECRETARY TO THE COMMISSION  
3 AND SHALL ATTEND ALL MEETINGS OF THE COMMISSION AND MAY PROVIDE RECOMMENDATIONS  
4 ON APPLICATIONS BEFORE THE COMMISSION.

5  
6 **Section 16.606. Powers of the Commission.**

7 (f) *Approve Historic Tax Credits*. As specified in sections 20.112 and 20.113 of the County  
8 Code, the Commission may[[:

9 (1) Determine whether a structure is eligible for a historic tax credit; and

10 (2) Approve]]APPROVE an application for a historic tax credit.

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12 **Title 20. Tax, Charges and Fees.**

13 **Subtitle 1. Real Property Tax; Administration, Credits and Enforcement.**

14  
15 **Section 20.112. Historically valuable, architecturally valuable, or architecturally compatible**  
16 **structures.**

17 (a) *Establishment of Historic Tax Credit Program for Qualified Expenses*. In accordance with section 9-  
18 204 of the Tax-Property Article, Annotated Code of Maryland, there is a Howard County Property Tax  
19 Credit in the amount of 25 percent of the qualified expenses used for the restoration and preservation of  
20 an eligible historic property.

21 (b) *Definitions*. In this section the following terms have the meanings indicated:

22 (1) *Certificate of eligibility* means the order issued by the Commission to the owner of an eligible  
23 property, which authorizes the Department of Finance to apply a historic tax credit to the  
24 eligible property.

25 (2) *Commission* means the Historic Preservation Commission created under sections 6.324 and  
26 16.604 of the County Code.

27 (3) *Eligible property* means:

28 (i) A structure that is listed on the Howard County Historic Sites ~~Survey~~ INVENTORY and is  
29 designated by the Commission as historically significant;

30 (ii) A structure eligible for inclusion in the Howard County Historic Sites ~~Survey~~ INVENTORY,  
31 which is added to the ~~survey~~ INVENTORY prior to the final approval of a certificate of  
32 eligibility;

1 (iii) An existing principal structure or historic outbuilding located within a local historic district  
2 in Howard County, which is determined by the Commission to be of historic or  
3 architectural significance, or to be architecturally compatible with the historic structures in  
4 the district; [[or]]

5 (IV) A LANDSCAPE FEATURE LOCATED WITHIN A LOCAL HISTORIC DISTRICT OR LISTED ON THE  
6 HISTORIC SITES INVENTORY, WHICH IS DETERMINED BY THE COMMISSION TO BE OF  
7 HISTORIC OR ARCHITECTURAL SIGNIFICANCE; OR

8 ([[iv]]V) A cemetery, at least 50 years old, not operated as a business, which is listed on the  
9 Howard County Cemetery Inventory under section 16.1303 of the County Code.

10 (4) *Eligible work* means:

11 (i) Work done on an eligible property:

- 12 a. In compliance with the rules adopted by the Commission under subsection 16.606(e)  
13 of the County Code;
- 14 b. After the owner receives initial approval of an application for a certificate of  
15 eligibility; and
- 16 c. In conformity with the application for which initial approval was given.

17 (ii) *Eligible work* includes:

- 18 a. The repair or replacement of exterior features of the structure;
- 19 b. Work that is necessary to maintain the physical integrity of the structure with regard  
20 to safety, durability, or weatherproofing;
- 21 c. Maintenance of the exterior of the structure, including routine maintenance as defined  
22 in section 16.601 of the County Code; [[and]]
- 23 D. REPAIR OR REPLACEMENT OF HISTORIC LANDSCAPE FEATURES SUCH AS MASONRY  
24 WALLS, FENCES, OR OTHER SITE FEATURES, IF DETERMINED TO BE OF HISTORIC OR  
25 ARCHITECTURAL SIGNIFICANCE BY THE COMMISSION; AND
- 26 [[d]]E. Repair or maintenance of existing gravestones, walls, fencing, or other site features  
27 of an eligible property that is a historic cemetery.

28 (iii) *Eligible work* does not include:

- 29 a. New construction;
- 30 b. Interior finish work that is not necessary to maintain the structural integrity of  
31 the building; or
- 32 c. Landscape maintenance or new landscape plantings, EXCEPT AS DEFINED  
33 ABOVE FOR HISTORIC LANDSCAPE FEATURES.

1 (5) *Qualified expenses:*

2 (i) The amount of money paid by the owner of an eligible property to a licensed  
3 contractor, architect, ENGINEER or historic preservation consultant for eligible work,  
4 or for materials used to do eligible work.

5 (ii) In order to be eligible for a tax credit under this section, qualified expenses must be  
6 \$500.00 or greater.

7 (6) *Routine maintenance.* Work that qualifies as routine maintenance under section 16.601  
8 of the County Code.

9 (c) *Procedures:*

10 (1) The owner of an eligible property may apply to the Commission for a historic tax credit  
11 for qualified expenses. The application shall be in the form and accompanied by  
12 additional information that the Commission, by rule, requires.

13 (2) The Commission OR THE EXECUTIVE SECRETARY shall give initial approval of a  
14 certificate of eligibility:

15 (i) If it determines the property to be an eligible property;

16 (ii) If it determines that the proposed work is eligible work; and

17 (iii) If the eligible property is within a historic district, any required certificate of  
18 approval under section 16.603 of the County Code has been issued for the work.

19 (3) Upon completion of the work, the owner shall submit to the Commission documentation  
20 that the work was done in accordance with the initial approval of the certificate of  
21 eligibility and shall document all qualified expenses.

22 (4) The Commission shall review the application, the initial approval, and the  
23 documentation.

24 (5) At a public hearing, the Commission shall give final approval of the certificate of  
25 eligibility and shall determine:

26 (i) What work is eligible work; and

27 (ii) The dollar amount of qualified expenses for the work.

28 (6) The dollar amount of qualified expenses and the amount of the tax credit shall be  
29 entered on the certificate of eligibility.

30 (7) An owner who is denied all or part of a tax credit by the Commission may appeal the  
31 denial to the Circuit Court of Howard County.



1 (8) After final approval by the Commission, the Commission shall forward the certificate of  
2 eligibility to the Department of Finance.

3 (9)(i) The Department of Finance shall grant the tax credit for the tax year immediately  
4 following the year in which the certificate of eligibility is received by the  
5 Department.

6 (ii) If the amount of the tax credit under this section exceeds the amount of the Howard  
7 County Real Property Tax, any unused portion of the tax credit may be applied to  
8 any property tax on the structure for up to five subsequent tax years.

9 (d) *Certificate Runs with Property.* A certificate of eligibility runs with the property, and change  
10 in ownership does not result in the lapse of a tax credit granted under this section.

11 (e) *Applicability outside Historic District:*

12 (1) For property not located in an official local historic district, the certificate of eligibility  
13 establishes tax credit eligibility.

14 (2) Work not done in accordance with initial approval of a certificate of eligibility does not  
15 qualify for a historic tax credit, but otherwise is not subject to subsection 16.606(a) of  
16 the County Code regarding commission approval or section 16.610 of the County Code  
17 regarding enforcement.

18  
19 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that***  
20 ***this Act is an Emergency Bill that is necessary to protect the public health, safety, and welfare***  
21 ***and is effective upon enactment.***

Amendment 1 to Council Bill No. 67-2016

BY: The Chairperson at the  
request of the County Executive

Legislative Day No. 18  
Date: November 9, 2016

Amendment No. 1

*(This amendment adds a requirement to specifically notify Commissioners in writing of the decision of the Executive Secretary and corrects references.)*

1 On page 4, in line 23, after “WEBSITE.” insert “THE EXECUTIVE SECRETARY SHALL NOTIFY EACH  
2 COMMISSIONER IN WRITING.”.

3

4 On Page 4, in line 24, after “POSTING” insert “ON THE WEBSITE, AND WRITTEN NOTIFICATION TO  
5 THE COMMISSIONERS”.

6

7 Strike “Survey” and substitute “INVENTORY” in the following instances:

8 On page 5, in line 26; and

9 On page 5, in line 28.

10

11 On page 5, in line 29, strike “survey” and substitute “INVENTORY”.

ADOPTED 11/9/16  
FAILED  
SIGNATURE Jessica Hedmark