

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2014 Legislative Session

Legislative Day No. 3

Bill No. 11 -2014

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

AN ACT changing the name of the Historic District Commission to be the Historic Preservation Commission; defining certain terms; allowing for certain single-site historic districts; clarifying certain membership of the Commission; extending certain voting deadlines; clarifying the advisory role of the Commission; clarifying certain powers of the Commission and staff; clarifying certain appeal provisions; and generally relating to the Historic District Commission.

Introduced and read first time _____, 2014. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, 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 _____, 2014.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2014 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2014 at ___ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved by the County Executive _____, 2014

Ken Ulman, 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 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 1. By amending:

4 Title 6 “County Executive and the Executive Branch”

5 Section 6.324 “Historic District Commission”

6

7 2. By amending:

8 Title 16 “Planning, Zoning, Subdivisions and Land Development Regulations”

9 Section 16.600 “Purpose”

10 Section 16.601 “Definitions”

11 Section 16.603 “Certificates of approval”

12 Section 16.603A “Review of development plans”

13 Section 16.604 “Historic District Commission”

14 Section 16.605 “Procedures of the Historic District Commission”

15 Section 16.606 “Powers of the Historic District Commission”

16 Section 16.611 “Appeals”

17

18 3. By amending:

19 Title 20 “Taxes, Charges and Fees”

20 Section 20.112(b)(2) “Historically valuable, architecturally valuable, or architecturally
21 compatible structures”.

22 Section 20.113(b)(2) “Restorations and rehabilitations of historic or heritage
23 properties”.

24

25 **Title 6. County Executive and the Executive Branch.**

26 **Subtitle 3. Boards and Commissions.**

27

28 **Section 6.324. Historic [[District]] PRESERVATION Commission.**

29 There is a Historic [[District]] PRESERVATION Commission. Its membership and duties and
30 responsibilities are set forth in subtitle 6, "Historic [[District]] PRESERVATION Commission," of
31 title 16, "Planning, Zoning, Subdivision, etc.," of the Howard County Code

1
2 **Title 16. Planning, Zoning, Subdivisions and Land Development Regulations.**

3 **Subtitle 6. Historic [[District]] PRESERVATION Commission.**

4
5 **Section 16.600. Purpose.**

6 The regulations set forth in this subtitle are adopted pursuant to the authority of article 25A,
7 section 5(BB) (Historic and Landmark Zoning and Preservation) of the Annotated Code of
8 Maryland 1957, as amended, to regulate construction, alteration, reconstruction, moving and
9 demolition of structures of historic, architectural, and archeological value, together with their
10 appurtenances and environmental settings within respective specified limits. These regulations
11 are designed to safeguard the heritage of the County by preserving districts herein which reflect
12 elements of its cultural, social, economic, political or architectural history; to stabilize and
13 improve the property values in such districts in the County; to foster civic beauty; to strengthen
14 the local economy; and to promote the use and preservation of such historic districts in the
15 County for the education, welfare and pleasure of the residents of the County.

16 These regulations are also intended to promote the preservation of the County's historic resources
17 by establishing the Historic PRESERVATION [[District]] Commission, WHICH SHALL BE THE
18 STEWARD OF THE HISTORIC PRESERVATION PLAN AND SERVE as a resource available to provide
19 advice and counsel to Howard County agencies, Boards, Commissions, and property owners
20 regarding historic sites, either within or outside the boundaries of historic districts.

21
22 **Section 16.601. Definitions.**

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

24 (a) *Appurtenances and environmental settings* mean walkways and driveways (whether paved
25 or not), trees, waterways and rocks, and landscaping that form part of the setting for a historic
26 structure or use on the same lot.

27 (b) *Certificate of approval* means an order issued by the [[Historic District]] Commission
28 authorizing new construction or alterations to properties within a historic district as provided in
29 this subtitle.

30 (c) *COMMISSION* MEANS THE HISTORIC PRESERVATION COMMISSION.

1 ([[c]]D) **Contributing structure** means a structure located within a historic district and
2 contributing to the historic or architectural value of the district.

3 ([[d]]E) **Historic district** means an area in the County which is deemed to be of historic or
4 architectural value, the boundaries of which shall be established in accordance with the [[zoning
5 regulations]] ZONING REGULATIONS of Howard County as amended from time to time. A
6 *MULTIPLE SITE HISTORIC DISTRICT* IS ANY DISTRICT CONSISTING OF MORE THAN ONE PROPERTY. A
7 *SINGLE SITE HISTORIC DISTRICT* CONSISTS OF ONLY ONE PROPERTY.

8 ([[e]]F) **Historic sites inventory** means the list of historic sites adopted by RESOLUTION OF THE
9 County Council [[resolution No. 130-2000, or any historic sites inventory subsequently adopted
10 by the Council]].

11 ([[f]]G) **Historic structure** means a structure situated within the County which, together with its
12 appurtenances and environmental setting, has significant historic or architectural value. *Historic
13 structure* includes a structure listed on the historic sites inventory.

14 ([[g]]H) **Principal use or structure** means the main use of a lot or a structure, as opposed to an
15 accessory use or structure.

16 ([[h]]I) **Routine maintenance** means work that does not alter the exterior features of a structure
17 and has no material effect on the historic or architectural significance of the structure.

18 **Routine maintenance** includes:

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

27 ([[i]]J) **Structure** means anything constructed, the use of which requires permanent location on
28 the ground, or attached to something having permanent location on the
29 ground. *Structure* includes buildings, porches, decks, awning, fences, gravestones,
30 communication towers, and streetlights and other exterior lighting fixtures. Street furniture such
31 as benches, newspaper boxes, and trash receptacles are considered structures if permanently

1 affixed to the ground. The term *structure* shall be construed as if followed by the words "or part
2 thereof" and to include the words "appurtenances and environmental settings."

3
4 **Section 16.603. Certificates of approval.**

5 (a) *Certificate of Approval Required.* Except as provided otherwise in this section, a certificate
6 of approval from the [[Historic District]] Commission is mandatory before the following may be
7 undertaken within any historic district:

- 8 (1) Construction, moving, demolition, repair or alteration of any structure in any
9 manner affecting the exterior appearance of the structure;
10 (2) Construction or alteration of parking areas; and
11 (3) Installation or alteration of exterior signs.

12 (b) *Routine Maintenance.* A certificate of approval is not required for routine maintenance.

13 (c) *Preparation for New Development.* A certificate of approval is not required for the following
14 work when carried out in accordance with an approved subdivision plan, site development plan,
15 forest conservation plan, or grading plan:

- 16 (1) Construction or alteration of public streets and sidewalks, use-in-common
17 driveways, storm drains and drainage swales, stormwater management facilities,
18 and utility lines;
19 (2) Tree clearing and removal; or
20 (3) Installation of forest conservation plantings, street trees, and other required
21 landscaping.

22 (d) *Building Permit.* The Department of Inspections, Licenses and Permits shall not issue a
23 building permit or a grading permit for work requiring a certificate of approval unless the
24 [[Historic District]] Commission has issued a certificate of approval. The permit shall
25 incorporate any requirements or modifications required by the certificate of approval.

26 (e) *Sign Permit.* The Department of Inspections, Licenses and Permits shall not issue a sign
27 permit for work requiring a certificate of approval unless the [[Historic District]] Commission
28 has issued a certificate of approval. The sign permit shall incorporate any requirements or
29 modifications required by the certificate of approval.

30 (f) *Posted on Property.* The certificate of approval shall be posted on the property in a location
31 visible from a public street while the work authorized by the certificate is being performed.

1 (g) *Expiration of Certificate of Approval.* Unless extended by the Commission, a certificate of
2 approval issued by the [[Historic District]] Commission shall expire automatically if:

3 (1) The work has not been substantially completed within 18 months from the date
4 the certificate of approval was issued for an application for the alteration, repair,
5 moving, or demolition of a structure, or for the construction of a new accessory
6 structure.

7 (2) The work has not been substantially completed within three years from the date
8 the certificate of approval was issued for an application for the construction of a
9 new principal structure.

10 (h) *Extension of Certificate of Approval.* An application for extension of a certificate of approval
11 shall be treated and considered as a new application before the Commission.

12
13 **Section 16.603A. Review of development plans.**

14 Prior to the initial submittal of an application for subdivision or site development plan approval
15 on a site located in a historic district established under this [[subtitle]] SUBTITLE, ADJOINING A
16 MULTI-SITE HISTORIC DISTRICT, or that contains a historic structure, the applicant shall request
17 review by the Commission to identify all historic resources on the site and obtain advice from the
18 Commission regarding the design of development.

19
20 **Section 16.604. Historic [[District]] PRESERVATION Commission.**

21 (a) *Establishment.* There is [[an]] A Historic [[District]] PRESERVATION Commission to carry out
22 the purposes of this subtitle.

23 (b) *Membership and Appointment:*

24 (1) *General provisions.* General provisions applicable to this Commission are set
25 forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and
26 the Executive Branch," of the Howard County Code.

27 (2) *Number of members.* The Commission shall have a membership of seven persons.

28 (3) *Qualifications:*

29 (i) All members shall be residents of Howard County.

30 (ii) Members shall be professionals in or have special interest, knowledge, or
31 training in such fields as history, architecture, archeology, anthropology,

1 curation, preservation, urban design or related disciplines and shall have
2 knowledge of and have demonstrated an interest in the preservation of
3 historic and architectural areas of the County.

4 (iii) The Commission shall include at least one resident or property owner
5 from each MULTIPLE SITE historic district in Howard County. When a new
6 MULTIPLE SITE historic district is created, a resident or property owner
7 from the new district shall be appointed to the Commission within three
8 years of the date the new district is created. Within three months of the
9 creation of the new MULTIPLE SITE historic district, the County Executive
10 shall appoint a resident or property owner from the new district as a
11 temporary additional voting member of the Commission, to serve until the
12 permanent member of the Commission from that district is appointed and
13 confirmed.

14 (c) *Quorum.* Three members shall constitute a quorum, and the vote of the majority present shall
15 be necessary for a decision.

16
17 **Section 16.605. Procedures of the [[Historic District]] Commission.**

18 (a) *Rules of Procedure.* The Commission shall adopt rules of procedure necessary for the
19 discharge of its duties.

20 (b) *Applications:*

21 (1) Applications for a certificate of approval and any other Commission approval or
22 review required under this subtitle shall be filed with the Department of Planning
23 and Zoning.

24 (2) The Department shall check the application for completeness and shall forward the
25 application, together with all maps, plans and all other data required by the rules of
26 the [[Historic District]] Commission, to the [[Historic District]] Commission.

27 (3) Provided that the application was filed with the Department of Planning and
28 Zoning at least 22 calendar days before the Commission's next scheduled meeting,
29 the Department shall place the application on the agenda for the next scheduled
30 Commission meeting. The Commission shall hear only those applications which
31 [[it]] STAFF FROM THE DEPARTMENT OF PLANNING AND ZONING determines are

1 complete. Applications filed less than 22 calendar days before the Commission's
2 next scheduled meeting shall be placed on the agenda for the following meeting.

3 (4) The Commission may hold an emergency meeting to hear an application for a
4 certificate of approval which requires immediate action due to an immediate safety
5 or health hazard or the need for emergency repairs.

6 (c) *Standing.* Any person, or the person's duly constituted representative, shall be entitled to
7 appear and be heard on any matter before the Commission reaches a decision.

8 (d) *Records.* The Commission shall keep a record of its proceedings and action, which shall be
9 on file for public view at the Department of Planning and Zoning.

10 (e) *Notice.* Notice of Commission meetings shall appear in a newspaper of general circulation in
11 Howard County at least seven days prior to such meeting. Each application to be heard at a
12 Commission meeting shall be advertised in the manner provided for in the rules of the
13 Commission. Notice of an emergency meeting is not required to be published in a newspaper,
14 provided that the property which is the subject of an application to be heard at an emergency
15 meeting is posted with the time, date, place, and subject matter of the meeting for at least 24
16 hours immediately prior to the meeting.

17 (f) *Action of the Commission:*

18 (1) The Commission shall file with the Department of Planning and Zoning its
19 certificate of approval, modification or denial of all applications and plans
20 submitted to it for review.

21 (2) No work shall begin until such certificate of approval shall have been filed.

22 (3) Failure of the Commission to vote on an application within [[60]]90 days from the
23 date a complete application is filed shall constitute approval, unless an extension
24 of the [[60]]90-day period is agreed upon mutually by the applicant and the
25 Commission or the application has been withdrawn.

26 (4) The Commission shall set forth, in writing, its reason for approval or denial of an
27 application submitted to it for review.

28 (5) If an application is denied, in the absence of a change to the structure arising from
29 casualty, no new application for the same or similar work shall be filed within one
30 year after the conclusion of the hearing on the denied application.

31

1 **Section 16.606. Powers of the ~~[[Historic District]] Commission.~~**

2 (a) *Review of Applications.* The Commission shall review all applications for certificates of
3 approval. The Commission shall also review applications for alterations to historic structures
4 outside the historic district AND MAKE ANY OTHER DETERMINATION when required by ~~[[the~~
5 conditional use provisions of]] the zoning regulations. The Commission shall approve, approve
6 with modifications, or deny the applications.

7 (b) ~~[[Designation of]]~~ *CONSULTATION WITH THE Maryland Historical Trust.* The Commission
8 may ~~[[designate]]~~ CONSULT WITH the Maryland Historical Trust to make an analysis of and
9 recommendation concerning the preservation of structures of historic or architectural value
10 within the County. Such report may propose boundaries of districts as well as identify particular
11 structures recommended to be preserved.

12 (c) *Recommend Designation as Historic District.* The Commission shall have the right to
13 recommend to the Howard County ZONING BOARD that appropriate areas be designated as
14 historic districts. The Commission shall also make recommendations to the Zoning Board on all
15 petitions to create or amend the boundaries of historic districts. THE COMMISSION SHALL ONLY
16 CONSIDER APPLICATIONS FOR SINGLE SITE HISTORIC DISTRICTS THAT ARE SUBMITTED BY THE
17 OWNERS OF THOSE RESPECTIVE SITES. PROCEDURES FOR THE DESIGNATION OF A SINGLE SITE
18 HISTORIC DISTRICT ARE OUTLINED IN SECTION 400 OF THE HISTORIC PRESERVATION
19 COMMISSION’S RULES OF PROCEDURE.

20 (d) *Provide Advice on Historical Resources.*

21 (1) The Commission shall perform the following advisory functions:

22 ~~[[1]]~~(i) Advise and assist in developing plans for the preservation of historic
23 resources within Howard County upon the request of an Agency, Board or
24 Commission of Howard County Government.

25 ~~[[2]]~~(ii) Advise and assist the ~~[[department of planning and zoning]]~~
26 DEPARTMENT OF PLANNING AND ZONING in identifying historic resources
27 on property that requires subdivision or site development plan approval
28 and is located in a historic district established under this subtitle or
29 contains an historic structure. Such advice shall be given prior to the initial
30 plan submittal for either subdivision or site development plans.

1 [[3]](III) Advise an applicant for subdivision or site development plan approval
2 for a site located in a historic district established under this [[subtitle]]
3 SUBTITLE, ADJOINING A MULTI-SITE HISTORIC DISTRICT or that contains a
4 historic structure. Such advice shall be provided prior to the initial
5 submittal for a subdivision or site development plan. After Commission
6 review of a plan under this paragraph, the Director of the Department of
7 Planning and Zoning may require the applicant to resubmit the plan to the
8 Commission for its review and advice if:

- 9 [[i]]A. Before the subdivision application or site development plan is
10 approved, the applicant submits a revised plan that the Director of
11 the Department of Planning and Zoning determines is inconsistent
12 with the Commission's comments on the previous plan; or
13 [[ii]]B. The subdivision plan or site development plan expires and the
14 applicant submits a new plan.

15 [[4]](IV) Upon the request of the applicant, provide [[preapplication]] PRE-
16 APPLICATION advice on the design of proposed work to persons seeking a
17 certificate of approval.

18 (2) THE COMMISSION MAY PERFORM THE FOLLOWING ADVISORY FUNCTIONS:

- 19 (I) REVIEW APPLICATIONS FOR ZONING TEXT AMENDMENTS, MAP
20 AMENDMENTS, CONDITIONAL USE, OR VARIANCE APPROVALS AND MAKE
21 RECOMMENDATIONS TO THE ZONING BOARD, PLANNING BOARD, COUNTY
22 COUNCIL, OR HEARING EXAMINER FOR:
23 (A) AREAS LOCATED WITHIN A HISTORIC DISTRICT OR
24 (B) A HISTORIC STRUCTURE LISTED ON THE HISTORIC SITES
25 INVENTORY;
26 (II) REVIEW AND PROVIDE ADVICE TO THE PLANNING BOARD AND COUNTY
27 COUNCIL ON OTHER PROPOSALS AFFECTING HISTORIC PRESERVATION,
28 INCLUDING COUNTY GENERAL PLANS AND AREA MASTER PLANS.
29 (III) ADVISE IN DEVELOPING PLANS FOR THE PRESERVATION OF HISTORIC
30 RESOURCES WITHIN HOWARD COUNTY UPON THE REQUEST OF THE OWNER
31 OF THE HISTORIC RESOURCE.

1 (e) *Adopt Rules to Implement Historic Tax Credit Program:*

2 (1) The Commission shall adopt rules to implement the historic tax credit program
3 under sections 20.112 and 20.113 of the County Code.

4 (2) The rules shall include:

5 (i) Procedures to be followed by a property owner in applying for the tax
6 credit.

7 (ii) Procedures to be followed by the Commission in considering an
8 application; and

9 (iii) Guidelines for the performance of eligible work.

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

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

13 (2) Approve an application for a historic tax credit.

14 (G) *MAINTAIN THE INVENTORY.* THE COMMISSION SHALL ADVISE ON UPDATING AND MAINTAINING
15 THE HISTORIC SITES INVENTORY.

16

17 **Section 16.611. Appeals.**

18 Any person or persons jointly or severally, or firm or corporation, aggrieved by a decision of the
19 [[Historic District]] Commission may appeal the decision of the [[Historic District]] Commission
20 to the Circuit Court for Howard County, provided the appeal is made within 30 days of the
21 Commission's [[decision]] VOTE TO APPROVE OR DENY THE APPLICATION, OR THE DATE AN
22 APPLICATION IS APPROVED DUE TO THE FAILURE OF THE COMMISSION TO VOTE.

23

24 **Title 20. Taxes, Charges and Fees.**

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

26

27 **Section 20.112. Historically valuable, architecturally valuable, or architecturally**
28 **compatible structures.**

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

30 (2) *Commission* means the Historic [[District]] PRESERVATION Commission created
31 under sections 6.324 and 16.604 of the County Code.

1

2 **Section 20.113. Restorations and rehabilitations of historic or heritage properties.**

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

4 (2) *Commission* means the Historic [[District]] PRESERVATION Commission created
5 under section 6.324 of the County Code.

6

7 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland,

8 *that this Act shall become effective 61 days after its enactment.*