

# **The Howard County Historic Preservation Commission Rules of Procedure**

**Adopted March 2004**  
Amended December 2009  
Amended February 2013  
Amended May 2017  
Amended October 2020  
Amended June 2022

**The Howard County Historic Preservation Commission  
Administered by  
The Howard County Department of Planning and Zoning  
3430 Court House Drive  
Ellicott City, MD 21043  
410-313-2350**

**TABLE OF CONTENTS**

**RULES OF PROCEDURE OF THE HISTORIC PRESERVATION COMMISSION..... 2**

- 100. General ..... 2
- 101. Scheduling and Advertising of Meetings ..... 3
- 102. Conduct of Meetings ..... 4
- 103. Decisions of the Historic Preservation Commission ..... 5
- 104. Pre-Application Advice ..... 6
- 105. Applications for Certificate of Approval and Other Determinations Required by the County Code ..... 8
- 106. Amendments to Rules of Procedure ..... 9
- 107. Guidelines ..... 10

**TAX CREDITS AND ASSESSMENT CAPS ..... 11**

- 200. General ..... 11
- 201. Procedures for Tax Credit Applications Under § 20.112 ..... 11
- 202. Procedures for Tax Credit Applications Under § 20.113 ..... 13
- 203. Custody of Records ..... 16

**DEMOLITION AND RELOCATION OF STRUCTURES IN HISTORIC DISTRICTS ..... 17**

- 300. General ..... 17
- 301. Contents of Application ..... 17
- 302. Classification of Structure ..... 17
- 303. Demolition of Structures of Unusual Importance ..... 18
- 304. Demolition of Other Structures ..... 19
- 305. Relocation of Structures ..... 19
- 306. Documentation of Structure ..... 19

**DEMOLITION BY NEGLECT OF STRUCTURES IN HISTORIC DISTRICTS..... 20**

- 400. General ..... 20
- 401. Contents of Application ..... 21
- 402. Historic Preservation Commission Hearing Determinations ..... 21

## RULES OF PROCEDURE OF THE HISTORIC PRESERVATION COMMISSION

### 100. General

These rules are adopted pursuant to the authority of the Howard County Code, Title II "Administrative Procedures," Subtitle I "Administrative Procedures Act."

- A. The Historic Preservation Commission (the Commission) shall elect a Chairperson, Vice Chairperson, and Secretary to serve for a term of one year at its first regularly scheduled meeting in the month of October in each year. Three votes shall be necessary to elect a Commissioner to these offices.
- B. The Chairperson or the Chairperson's designee shall preside over all meetings of the Commission; call special meetings; call the Commission into executive sessions; interpret Roberts Rules of Order as they apply to the conduct of this Commission upon the advice of the Legal Advisor to the Commission, when requested; and in general preside over the proper conduct and decorum of the Commission while the Commission is in session.
- C. The Vice Chairperson shall have all of the powers and responsibilities of the Chairperson, in his or her absence. The Secretary shall have all of the powers and responsibilities of the Chairperson, in the absence of the Chairperson and Vice Chairperson.
- D. The Director of Planning and Zoning or the Director's Designee shall act as the Executive Secretary to the Commission. The Executive Secretary shall notify all Commissioners of all meetings, prepare the agenda for meetings, insert the necessary advertisements in the appropriate newspapers; maintain a complete record of all public meetings of the Commission where an application is before the Commission; give written notice by electronic mail, mail or personal service to each petitioner of any public meeting at which his or her application will be heard; make minor alteration determinations subject to Rule 105.I; and perform other administrative support tasks as requested by the Commission.
- E. The Legal Advisor shall be the County Solicitor or other member of the Office of Law, as designated by the County Solicitor, and may attend and participate in the meetings of the Commission. The Legal Advisor shall assist the Commission in drafting opinions and shall provide advice and assistance to the Commission when requested by any member of the Commission.
- F. Unless excused by resolution of the Commission, whenever a member of the Commission has accumulated three consecutive absences from regular public meetings, the Chairperson must notify the County Executive that the position is deemed vacant and that procedures for filling the vacancy be instituted with all due haste.
- G. No member of the Commission with a personal or financial interest in the outcome of a decision on an application shall speak or vote upon the matter during the Commission's deliberations.
- H. Except as may otherwise be provided by law or these rules, outside of a public meeting a member of the commission shall not communicate with any party on any matter relevant to an application for a certificate of approval, advice, a tax credit, or other determination

required by County Code.

- I. On-site inspections by Commission members are generally permitted. The Commission member may visit the property before the public meeting. If the Commission member makes any observation or obtains any information while at the site that may be material to the Commission's decision, the Commissioner must state the information on the record during the meeting.

However, in cases alleging demolition by neglect, Commission members may only observe the property from the public right-of-way, unless the property owner has provided authorization.

#### **101. Scheduling and Advertising of Meetings**

- A. A regular meeting of the Commission shall be held on the first Thursday of each month, at 7:00 p.m. unless otherwise directed by the Commission. The meeting shall be in a place designated by the Commission and noted in the advertisement of the meeting. The Commission may vote to limit the length of any regular monthly meeting. If an application cannot be heard due to such a time limit, the meeting shall be continued to a time mutually agreed upon by the Commission and petitioner, and such time shall be announced at the advertised meeting.
- B. Special meetings of the Commission shall be called by the Chairperson when, in his or her opinion, it is necessary to prevent undue delay in the issuance of building permits or to consider any matter that requires attention prior to the next regular meeting. Upon request of any three (3) members of the Commission, a special meeting shall be called by the Chairperson within fourteen (14) days of receipt by the Chairperson of said request.
- C. Emergency meetings of the Commission may be called by the Chairperson to hear applications for certificates of approval and/or pre-approval of certificates of eligibility which require immediate action to allow emergency repairs to a structure or to remedy immediate safety or health hazards.
- D. Unless otherwise provided by law, a quorum of the Commission shall be present to conduct a regular or special meeting. Three Commission members shall constitute a quorum, and the vote of the majority present shall be necessary for a decision.
- E. Notice of any regular or special meetings shall be advertised in one newspaper of general circulation in Howard County at least seven (7) days preceding the meeting. The advertisement shall include notice of the date, time, and place of the meeting, and the address and petitioner's name for each case to be considered at the meeting. Detailed application descriptions shall be posted on the Historic Preservation Commission webpage of the Howard County Government website at least five (5) days preceding the meeting.
- F. For emergency meetings, newspaper advertising shall not be required provided that the property which is the subject of an application to be heard at an emergency meeting shall be posted with the date, time and place of the meeting and the subject matter of the application for at least 24 hours immediately prior to the meeting.

- G. At least four (4) days prior to any regular or special public meeting, and as soon as possible prior to any emergency meeting, a copy of the agenda for such meeting shall be sent to each Commissioner. No application may be heard that has not been properly advertised.

**102. Conduct of Meetings**

- A. Meetings may be held in-person, via a virtual meeting, which includes teleconference, internet conference, and similar means approved by the Chair, or hybrid which is a combination of in-person and virtual.
- B. For virtual or hybrid meetings, pre-registration of each petitioner and anyone seeking to testify is required. Registration instructions and application descriptions will be posted on the Historic Preservation Commission website at least five (5) days prior to the meeting date. The Commission may permit documentary evidence submitted in advance in accordance with the registration instructions. The Commission will not accept documentary evidence during the course of a virtual or hybrid meeting without good cause shown as to why the documents were not submitted in accordance with the registration instructions. If a virtual meeting is continued, only the individuals who have registered in accordance with the registration instructions or are called by the petitioner in rebuttal or the protestants in rebuttal shall be permitted to testify. In cases alleging demolition by neglect, the Commission may permit a property owner defending an allegation to testify without pre-registration.
- C. For in-person meetings, all individuals desiring to testify shall sign their own name to the roster in favor of or opposed to the matter before the Commission as the case may be. If an in-person meeting is continued, only the individuals who have signed a roster prior to the end of the petitioner's case or are called by the petitioner in rebuttal or the protestants in rebuttal shall be permitted to testify. All persons testifying shall be required to take the following oath which shall be given by the Chairperson: "Do you solemnly promise to speak truthfully in the testimony you are about to give?"
- D. All persons testifying shall be required to take the following oath which shall be given by the Chairperson: "Do you solemnly promise to speak truthfully in the testimony you are about to give?"
- E. Any petitioner within the Historic District shall have the opportunity to fully present his or her case through the presentation of witnesses, exhibits and other evidence.
- F. The Chairperson shall establish the order of presentation dependent upon the nature of the application. The general procedure for hearing an application for a certificate of approval or other determination required by the Howard County Code to be held in conformity with Title 2, Subtitle 1, Article III of the County Code shall be as follows:
  - 1. Introduction of reports and official documents pertaining to the application and recommendations of the Department of Planning and Zoning by the Legal Advisor, the Executive Secretary, or Department of Planning and Zoning Staff. For each case, the application, the Howard County Charter, the Howard County Code, the Howard County Zoning Regulations, the Howard County General Plan,

the design guidelines contained in Rule 107, and all other relevant laws and regulations are deemed to be part of the record without necessity of formal introduction.

2. Presentation by the petitioner of matters relevant to the application, relevant testimony of witnesses in support of the application, and introduction of any other pertinent information to support the petitioner's request for a certificate of approval or determination, as the case may be.
3. Presentation by any persons in opposition to the application of matters relevant thereto, relevant testimony of witnesses in opposition to the application, and introduction of any other pertinent information in opposition to the petitioner's request for a certificate of approval, or determination, as the case may be.
4. The petitioner and all witnesses shall be subject to cross-examination by the petitioner or the petitioner's attorney and by opponents or the opponents' attorney, as the case may be, and by the Commission, the Legal Advisor, and other persons in attendance, in accordance with procedures which shall be designated by the Chairperson at the time of the meeting, to insure the orderly conduct of the meeting and the full and adequate consideration of the application and any opposition thereto.
5. The Commission may exclude incompetent, unreliable, irrelevant, or unduly repetitious evidence. The Chairperson, upon advice of the Legal Advisor, if requested, shall rule on all matters of admissibility of evidence and matters of law raised by any party during the meeting and any objections thereto shall be entered in the transcript and shall be made a part of the Record of Proceedings.
6. The Chairperson shall permit the presentation of rebuttal evidence or testimony prior to the conclusion of the meeting and shall permit summation by the petitioner or the petitioner's attorney and by a person speaking for the opposition.
7. Upon a formal vote, the Commission may make its final decision and order at the conclusion of the meeting or may take the matter under advisement for further deliberation and later decision at a future public meeting. The Commission may recess the meeting to receive additional evidence at a later public meeting if it determines that such additional evidence is essential in making a proper decision. At the later public meeting, the Commission may only consider new evidence in support of or in opposition to the application in question.

### **103. Decisions of the Historic Preservation Commission**

- A. If an application is approved or an allegation of demolition by neglect is affirmed or denied, the Commission shall issue a Decision and Order containing findings of fact and conclusions of law. The Decision and Order shall be issued within 45 days of the closing of the record in the case. This time period may be extended an additional 45 days if written notice is provided to the petitioner.

- B. If an application for a certificate of approval is denied, the reasons for the denial shall be set forth in writing in a Decision and Order and accompanied by findings of fact and conclusions of law.
- C. The Commission must vote on an application within 90 days from the date a complete application is filed. Failure to vote will constitute approval, unless an extension of the 90-day period is agreed upon mutually by the petitioner and the commission or the application has been withdrawn. In a case alleging demolition by neglect, where an affirmation or denial is required, the Commission's failure to vote within 90 days from the date a complete application is filed shall be considered a finding that the alleged violation does not exist, unless an extension of the 90-day period is agreed upon mutually by the property owner, petitioner and the Commission or the application has been withdrawn.
- D. The decisions shall be made a part of the Record of Proceedings, filed with the Department of Planning and Zoning and maintained as a part of the official records of the County. It shall be proper and permissible for any member who does not subscribe to the majority opinion to prepare a minority opinion.
- E. A tie vote of the Commission shall constitute a denial of the application.
- F. The Commission may approve an application subject to staff review of certain specified items, such as materials or other details. In this instance, a certificate of approval will not be issued until the petitioner complies with the request for additional information. It is incumbent upon the petitioner to supply the information, and the commencement of any work not completely approved constitutes a violation of the zoning regulations.
- G. If an application is denied, in the absence of a change to the structure arising from casualty, no new application for the same or similar work shall be filed within one (1) year after the last denial of the application. This provision does not apply to a request for reconsideration, except where the reconsideration results in a denial.
- H. In accordance with Howard County Code § 16.611, any person aggrieved by a decision of the Commission may appeal the decision, provided the appeal is made within 30 days of the date of the final written Decision and Order in the case.
- I. A request for reconsideration may be made within 15 days of the date of the final written Decision and Order in the case by submitting a letter to the Commission identifying the grounds for reconsideration. The Commission's decision to reconsider a case does not re-open the 90—day period within which the Commission must vote on a matter. A decision by the Commission to reconsider extends the time for appeal by 30 days.

**104. Pre-Application Advice**

- A. Advice on subdivision and site development plans:
  - 1. Prior to the initial submittal of an application for subdivision or site development

plan approval on a site located in a historic district or that contains a historic structure, the petitioner shall submit a request to the Commission to identify all historic resources on the site and obtain advice regarding the design of development.

2. A request for advice shall be submitted on a form provided by the Executive Secretary.
3. The request for advice shall be accompanied by a concept plan showing the proposed development of the subdivision, including the proposed lot locations, proposed siting of structures on the lots, and proposed architecture.
4. The request for advice must be submitted by the close of business 22 days prior to the next scheduled meeting in order to be advertised and placed on the agenda for that meeting.
5. The order of presentation at the public meeting on a request for advice shall first be the presentation by the petitioner. The Commission may, in its discretion, permit public testimony subject to subsections (6) and (7) below.
6. The Commission may limit the duration of the public meeting on a request for advice.
7. The Commission may limit the duration of individual testimony at a public meeting on a request for advice.
8. The Executive Secretary shall provide a copy of the minutes of the meeting on a request for advice to the petitioner and shall forward a copy to the Land Development Division of the Department of Planning and Zoning.

B. Advice on applications not requiring subdivision or site development plan approval:

1. For development or work not requiring subdivision or site development plan approval, an petitioner may submit a request for advice from the Commission.
2. A request for advice shall be submitted on a form provided by the Executive Secretary.
3. The request for advice must be submitted by the close of business 22 days prior to the next scheduled meeting in order to be advertised and placed on the agenda for that meeting.
4. The meeting procedures for a request for advice not requiring subdivision or site development plan approval are those set forth in subsection A.5 through A.7 of this section.
5. The Executive Secretary shall provide a copy of the minutes of the advisory meeting to the petitioner and shall forward a copy to the Land Development Division of the Department of Planning and Zoning.

**105. Applications for Certificate of Approval and Other Determinations Required by the County Code**

- A. The Executive Secretary may assist prospective applicants and property owners through means of: explaining the purposes of regulations and review; explaining the Commission's Rules of Procedure, the design manual, and other guidelines and regulations of the Commission and of other government agencies; and provision or reference to additional sources of information and professional assistance.
- B. Except in cases alleging demolition by neglect, all applications must be signed or authorized by the owner of the structure, even if the owner is not the petitioner. Petitioners shall obtain forms and submission requirements from the Department of Planning and Zoning.
- C. Inspection reports and supporting documentation from the Department of Inspections, Licenses and Permits (DILP) alleging demolition by neglect will be treated as an application to the Commission.
- D. The Commission may prescribe the form of applications, which may require submission of plans, descriptions, elevations and other materials. The petitioner for a certificate of approval shall have the responsibility of providing information sufficient to support the application and the burden of persuasion in all questions of fact which are to be determined by the Commission.
- E. Except in cases alleging demolition by neglect, the Executive Secretary shall determine if the application is complete or sufficiently complete to permit the Commission to properly consider the application and have a full understanding of the proposed work. Failure to provide any item listed on the application checklist may be cause for a determination that the application is incomplete.
- F. For applications determined to be incomplete, the Executive Secretary shall provide the petitioner with a detailed written list of all matters necessary to complete the application. Upon receipt of such notice, the petitioner may complete the application in accordance with the detailed list. The application may then be scheduled and advertised in the same manner as a complete application if the petitioner completes the application in accordance with the detailed list.
- G. All applications must be received by the Department of Planning and Zoning by the close of business 22 days prior to the regularly scheduled meeting in order to be advertised and placed on the agenda for the next regularly scheduled meeting of the Commission.
- H. The Commission, in its complete discretion, may permit withdrawal of applications at any time.
- I. Department of Planning and Zoning (DPZ) staff shall prepare an agenda for regularly scheduled meetings to include the order of presentation of cases, and staff comments on applications for a certificate of approval received by the deadline date. The Chair may alter the order of presentation of cases. Revised applications received after the deadline

date will be noted as such and presented at the regularly scheduled meeting. The Commission may consider the revised application at the meeting; may deem it incomplete and dismiss the application; or may consider it to be significantly changed and return it to DPZ staff for comments and inclusion in the agenda of the next regularly scheduled meeting.

- J. The Executive Secretary may determine that an application for a certificate of approval that is in accord with the requirements of § 16.603(b)(2) of the Howard county Code, constitutes a “Minor Alteration.” If the Executive Secretary makes such a determination, the Executive Secretary shall issue a written determination that the work is a minor alteration and post that determination, along with the full application, to the Commission’s website for five days. The Executive Secretary shall also notify each Commissioner in writing that a new determination has been posted. If within five days of posting on the website and written notification to the Commission, any person objects in writing to the Executive Secretary, a certificate of approval will be required and the application shall be heard by the Commission at its next regularly scheduled public meeting for which public notice and advertising has been completed as required by the County Code and these rules.

**106. Amendments to Rules of Procedure**

- A. The Commission or any person may petition for amendments to the Rules of Procedure or design guidelines adopted by the Commission.
- B. Meeting and Notice
  - 1. The amendments shall be considered at a public meeting. The petitioner shall advertise the date, time and place of the initial meeting at least 30 days before the meeting in at least two newspapers of general circulation in Howard County. The amendments shall be available for public review at the Department of Planning and Zoning for at least 30 days prior to the meeting.
- C. Time Limits for Meeting
  - 1. The petitioner, and those interested in being heard, shall be given a reasonable opportunity to present information to the Commission for its consideration.
  - 2. The Commission may impose a reasonable time limit for speaking on those who wish to make an oral presentation to the Commission.
  - 3. The Commission may impose a reasonable time limit on the duration of the meeting. Any individual not heard orally at such a meeting shall be given the opportunity to present written information to the Commission.
- D. Order of Presentation
  - 1. Introduction of reports and official documents pertaining to the meeting.
  - 2. Petitioner's presentation

3. Presentation by interested persons
4. The Commission may ask questions or request additional information from anyone making a presentation.

E. Action

The Commission shall make a decision by adopting, amending or repealing a Rule as required by the Howard County Administrative Procedures Act, Subtitle 1 of Title 2 of the Howard County Code. The Executive Secretary shall notify the petitioner and, upon request, other interested persons of the decision by sending them a copy of the decision.

**107. Guidelines**

- A. The Commission adopts the following as general design guidelines:
  1. The Secretary of the Interior's Standards for the Treatment of Historic Properties, 1992.
  2. The Secretary of the Interior's Standards and Illustrated Guidelines for Rehabilitating Historic Buildings, 1992.
  3. "Preservation Briefs" published by the Preservation Assistance Division of the National Park Service, U.S. Department of the Interior.
- B. The Commission adopts as design guidelines for the Ellicott City Historic District the Ellicott City Design Guidelines, Department of Planning and Zoning, 1998.
- C. The Commission adopts as design guidelines for the Lawyers Hill Historic District the Lawyers Hill Design Guidelines, Department of Planning and Zoning, April, 1995.

## TAX CREDITS AND ASSESSMENT CAPS

### 200. General

These rules are adopted pursuant to the authority of the Howard County Code, Title II, Subtitle I, Article II, § 2.104. The Historic Preservation Commission adopts these rules to implement the Historic Tax Credit Program under § 20.112 and § 20.113 of the Howard County Code.

### 201. Procedures for Tax Credit Applications Under § 20.112

#### A. Application Procedures

1. The application shall be upon the form prescribed by the Commission, which shall be made available by the Department of Planning and Zoning. The petitioner must complete the application and provide a thorough description of the proposed work sufficient for the Commission to determine whether the application is in accord with the law and applicable guidelines. The description of the proposed work may include samples, photographs or manufacturers' literature on materials, fixtures or other features to be used, plot plans, elevation drawings, details, and paint chips. Photographs of the existing conditions are also required. If the proposed work requires a certificate of approval, an application for a certificate of approval shall be submitted simultaneously with the tax credit application.
2. The petitioner shall provide any additional documentation the Executive Secretary deems necessary for full consideration and review by the Commission. Once the Executive Secretary determines the application is complete, the application will be advertised for a pre-approval meeting.
3. A pre-approval determination is required before eligible work may begin.

#### B. Pre-approval Determination

1. The Executive Secretary or the Commission may make a pre-approval determination upon finding:
  - a. that the property is an "eligible property" as defined in §20.112(b)(3) of the Howard County Code; and
  - b. that the work described in the application, or parts thereof, is "eligible work" as defined in §20.112(b)(4) and will be performed in accord with guidelines used by the Commission; and
  - c. that any certificate of approval required under §16.603 of the County Code has been issued for the work.
2. The Executive Secretary may only make a pre-approval determination after

informing the Commission of the tentative determination. If, within five days of notice from the Executive Secretary, any Commissioner objects to the determination, the pre-approval application shall be scheduled at the Commission's next regularly scheduled meeting after notice requirements are satisfied.

3. Neither the Commission nor the Executive Secretary may approve tax credits for any work that is commenced, or for any expenses incurred, before the proposed work receives a pre-approval determination.
4. The Commission shall review pre-approval applications at its regularly scheduled monthly meeting held in accordance Rules 101 and 102. If the work for a tax credit certificate of eligibility also requires a certificate of approval, the pre-approval meeting for the tax credit and the public meeting on the application for a certificate of approval shall be held concurrently. No application for pre-approval of a certificate of eligibility shall be heard at an emergency meeting unless the work applied for meets the requirements of Rule 101.C.
5. The general guidelines and district specific guidelines enumerated in Rule 107 shall apply to all tax credit applications.

C. Changes in Plans to Pre-Approved Work

If in the course of performing work that has been pre-approved as eligible work by the Commission, the property owner makes changes in the plans, the petitioner must do one of the following:

1. For minor changes needed due to circumstances not known at the time of the pre-approval, the petitioner may write a letter to the Executive Secretary requesting approval of the changes. The Executive Secretary may approve minor changes with the concurrence of the Chairperson only if:
  - a. The changes are needed due to unanticipated structural conditions, unavailability of materials, or other conditions not known at the time of the pre-approval;
  - b. The changes will not alter the exterior appearance of the building as approved by the Commission;
  - c. The changes will have no material effect on the historical or architectural significance of the structure; and
  - d. The changes are related to the scope of work that was in the original pre-approval but not evident at the time of approval.
2. For any other changes, the petitioner must file a new application.

D. Final Tax Credit Approval

Upon the receipt of a request for Final Tax Credit Approval, the Commission will review the work for compliance with the pre-approval determination. The Executive Secretary or the Executive Secretary's designee may inspect the work if necessary to enable the Commission to make its determinations.

1. Approval of a Howard County Property Tax Credit

To approve work for a Howard County Property Tax Credit, the Commission shall:

- a. Determine that the eligible work has been completed in accordance with the pre-approval determination.
- b. Determine a dollar amount of qualified expenses for eligible work performed in accordance with the pre-approval determination.
- c. Issue a final certificate of eligibility showing the dollar amount of the qualified expenses, and;
  - (1) Forward one copy of the final certificate of eligibility to the petitioner.
  - (2) Forward one copy of the final certificate of eligibility to the Department of Finance.

**202. Procedures for Tax Credit Applications Under § 20.113**

In accordance with § 9-204.1 of the Tax-Property Article, Annotated Code of Maryland, and Howard County Code § 20.113, there is a Howard County Property Tax Credit for Qualified Expenses based on an increase in property tax assessments due to renovation and rehabilitation of historic properties, not to exceed the difference between:

- (1) The Howard County Real Property Tax that, but for the tax credit, would be payable on the assessed value of an eligible historic property after the expenditure of qualified expenses; and
- (2) The Howard County Real Property Tax that would be payable on the assessed value of the property if there was no expenditure of qualified expenses.

A. Application Procedures

1. The application shall be upon the form prescribed by the Commission, which shall be made available by the Department of Planning and Zoning. The petitioner must complete the application and provide a thorough description of the proposed work sufficient for the Commission to determine whether the application is in accord with the law and applicable guidelines. The description of the proposed work may include samples, photographs or manufacturers' literature on

materials, fixtures or other features to be used, plot plans, elevation drawings, details, and paint chips. Photographs of the existing conditions are also required. If the proposed work requires a certificate of approval, an application for a certificate of approval shall be submitted simultaneously with the tax credit application.

2. The petitioner shall provide any additional documentation the Executive Secretary deems necessary for full consideration and review by the Commission. Once the Executive Secretary determines the application is complete, the application will be advertised for a pre-approval meeting.
3. A pre-approval determination is required before eligible work may begin.

**B. Pre-approval Determination**

1. The Executive Secretary or the Commission may make a pre-approval determination upon finding:
  - a. that the property is an "eligible property" as defined in § 20.113(b)(3) of the Howard County Code; and
  - b. that the Qualified Expenses serving as the basis for the tax credit application are for the purposes defined in § 20.113(b)(5) of the Howard County Code; and
  - c. that the Qualified Expenses are for work that will be performed in accord with guidelines used by the Commission; and
  - d. that any certificate of approval required under [section 16.603](#) of the County Code has been issued for the work.
2. The Executive Secretary may only make a pre-approval determination after informing the Commission of the tentative determination. If, within five days of notice from the Executive Secretary, any Commissioner objects to the determination, the pre-approval application shall be scheduled at the Commission's next regularly scheduled meeting after notice requirements are satisfied.
3. Neither the Commission nor the Executive Secretary may approve tax credits for any work that is commenced, or for any expenses incurred, before the proposed work receives a pre-approval determination.
4. The general guidelines and district specific guidelines enumerated in Rule 107 shall apply to all tax credit applications.
5. In the case of an emergency application due to flood, fire, or natural disaster, the Commission may issue a pre-approval determination after the expenditure of Qualified Expenses only if the Commission determines that the work was done in

accordance with Subtitle 6 of the County Code and in accord with the U.S. Secretary of Interior Standards and Guidelines on The Rehabilitation of Historic Structures.

C. Changes in Plans to Pre-Approved Work

If in the course of performing work that has been pre-approved as eligible work by the Commission, the property owner makes changes in the plans, the petitioner must do one of the following:

1. For minor changes needed due to circumstances not known at the time of the pre-approval, the petitioner may write a letter to the Executive Secretary requesting approval of the changes. The Executive Secretary may approve minor changes with the concurrence of the Chairperson only if:
  - a. The changes are needed due to unanticipated structural conditions, unavailability of materials, or other conditions not known at the time of the pre-approval;
  - b. The changes will not alter the exterior appearance of the building as approved by the Commission;
  - c. The changes will have no material effect on the historical or architectural significance of the structure; and
  - d. The changes are related to the scope of work that was in the original pre-approval but not evident at the time of approval.
2. For any other changes, the petitioner must file a new application.

D. Final Tax Credit Approval

1. If the assessed value of the property has increased after a valuation or revaluation under § 8-104 of the Tax-Property Article of the Annotated Code of Maryland, within 12 months of the increased assessment, the petitioner may apply for the final tax credit approval. The Executive Secretary or the Executive Secretary's designee may inspect the work if necessary to enable the Commission to make its determinations.
  - a. The petitioner shall file an application on a form provided by the Commission.
    - (1) The application should include the pre-approval determination and itemized receipts documenting the Qualified Expenses; and
    - (2) Any additional information that the Executive Secretary determines is necessary for the Commission to consider the application.

2. The Commission shall issue a final certificate of eligibility stating the amount of Qualified Expenses if the Commission:
  - a. Determines that the Qualified Expenses have been used for work completed in accordance with the pre-approval determination;
  - b. Determines the amount of Qualified Expenses documented to the satisfaction of the Commission; and
  - c. Determined that any certificate of approval or Commission determination required by the County Code or the Zoning Regulations has been issued for the work.
  - d. Issues a final certificate of eligibility showing the dollar amount of the qualified expenses
2. If the Commission approves the final certificate of eligibility the Executive Secretary shall:
  - a. Forward one copy to the petitioner; and
  - b. Forward one copy to the Department of Finance.

**203. Custody of Records**

- A. The Department of Planning and Zoning shall maintain a property file organized by address for properties located in a local historic district and organized by Howard County Historic Sites Inventory number for properties not located in a local historic district. The Department of Planning and Zoning shall maintain a data base or record of approved tax credits and tax assessment credits.

## DEMOLITION AND RELOCATION OF STRUCTURES IN HISTORIC DISTRICTS

### 300. General

These rules are adopted pursuant to the authority of the Howard County Code, Title II "Administrative Procedures," Subtitle I "Administrative Procedures Act," to guide the Historic Preservation Commission in review of proposals to demolish or relocate structures in historic districts.

Demolition or relocation of any structure in an historic district requires a certificate of approval. The certificate of approval must include a plan for treatment of the site after the structure is removed. The certificate of approval must also include the new location for a relocated building if the location is within an historic district in Howard County.

### 301. Contents of Application

An application for demolition or relocation shall include the following in addition to the information required for all applications for certificates of approval:

- A. Specific reasons for the demolition or relocation.
- B. Documentary evidence that supports the demolition or relocation request. Evidence may include reports on the condition of the structure; cost estimates for demolishing, relocating, repairing or stabilizing the structure; documentation showing that the structure does not contribute to the historic character of the district; or other information as needed for the particular application.
- C. Clear photographs of the structure.
- D. Site plans drawn to scale showing the structure proposed to be removed, other nearby site improvements, and proposed treatment after removal.
- E. For relocation of an historic structure, a detailed description of the methods of relocating the structure and the site to which the structure will be relocated must be provided.

### 302. Classification of Structure

Before acting on an application for demolition or relocation, the Commission shall determine whether the structure is a Structure of Unusual Importance.

- A. Structures of Unusual Importance are structures deemed by the Commission to be of unusual importance to the Nation, State or County, whose loss would cause great damage to the character and integrity of the historic district.
- B. Determination that a structure is a Structure of Unusual Importance shall be based on criteria in its adopted guidelines, the testimony of expert witnesses or other documentary evidence presented to the Commission.

### **303. Demolition of Structures of Unusual Importance**

- A. At a meeting on a request for demolition within the Historic District, the Commission must determine whether the structure is a Structure of Unusual Importance based on the testimony presented at the meeting and the information provided to the Commission by its Staff.
- B. If the Commission determines the structure is a Structure of Unusual Importance, the following applies:
  - 1. The Commission may deny the application unless:
    - a. The structure is a deterrent to a major improvement program which will be of substantial benefit to the County; or
    - b. Retention of the structure would cause undue financial hardship to the owner; or
    - c. Retention of the structure would not be in the interest of a majority of the persons in the community.
  - 2. The burden of proof is on the petitioner to establish that one of the conditions cited in Rule 303.B.1 applies.
  - 3. If the petitioner relies on Rule 303.B.1.b in order to meet the burden of establishing the need for demolition, the petitioner must present documentary evidence of the cost of maintaining or relocating the structure, the estimated cost of the demolition, the estimated cost of restoring or stabilizing the building, all other financial information on which the petitioner relies to establish financial hardship, and, if the petitioner relies on evidence of the lack of structural integrity of the structure, a report on the structural integrity prepared by an engineer licensed in the State of Maryland, based on the engineer's in person observations of the interior and exterior of the structure.
    - a. Costs that are estimated must be supported by written estimates by persons qualified to provide such estimates and in sufficient detail to permit the Commission to verify the reasonableness of the estimate.
    - b. The Commission may find that retention of the structure would cause the petitioner financial hardship if it determines that the building has been demolished by neglect or natural disaster and there is no feasible way to restore the building short of rebuilding.
  - 4. Based on the evidence presented in support of any condition contained in Rule 303.B.1, the Commission may continue the meeting in order to obtain access to the property to view the structure, with the property owner's permission, and to allow the petitioner or other persons testifying to submit additional evidence.

5. After all interested persons have had an opportunity to speak at the meeting, Commission may endeavor to work out with the petitioner an economically feasible plan to preserve the structure. The Commission may pursue this by asking questions of the petitioner or others present, and may continue the meeting to allow the petitioner and the Commission to pursue possible alternatives to the demolition. The Commission may request assistance from the Department of Planning and Zoning and other parties, public or private, in creating such a plan.
6. If, within 45 days of the initial meeting, no economically feasible plan can be agreed upon, the Commission may act on the application or may, at a public meeting, invoke §16.608(c) of the Howard County Code and grant itself a 90 day period to negotiate with the petitioner or other parties in any effort to find a means of preserving the structure.
7. The Commission shall act on the application before the expiration of the 90 day period. Failure to act within this 90 day period shall constitute approval, unless an additional extension of up to 90 days of the negotiating period is agreed to by the Commission and the petitioner at a public meeting or the application is withdrawn.

#### **304. Demolition of Other Structures**

- A. If the Commission determines that the structure is not a Structure of Unusual Importance, it shall vote to approve or deny the application based on the standards set forth in §16.607 of the Howard County Code and its adopted Guidelines.
- B. Before taking action on an application, the Commission may ask whether the petitioner is willing to have the Commission assist the petitioner in trying to develop an economically feasible plan to retain the structure. If the petitioner is willing to work with the Commission to try to develop such a plan, the Commission may continue the meeting to allow the petitioner and the Commission time to pursue possible alternatives to demolition. The Commission may request assistance from the Department of Planning and Zoning and other parties, public or private, in creating a plan to retain the structure.

#### **305. Relocation of Structures**

Applications to relocate structures shall be evaluated by the same standards used for demolition. Relocation may be considered as an alternative to preserve a structure that would otherwise be demolished. The Commission shall consider whether the proposed method of moving a historic structure will avoid damage to the structure. An application to relocate a structure shall include a plan showing the location on the receiving property of the relocated structure and its relationship to other on site structures.

#### **306. Documentation of Structure**

If demolition or relocation of a historic structure is approved by the Commission, the Commission may require that the owner provide opportunity for DPZ staff to document the condition of the structure and its site prior to removal.

## **DEMOLITION BY NEGLIGENCE OF STRUCTURES IN HISTORIC DISTRICTS**

### **400. General**

Allegations of demolition by neglect of any structure in an historic district requires the Commission to affirm or deny the presence of a violation per Subtitle 16.609A. If the Commission affirms a violation of demolition by neglect exists, they shall prescribe minimum items of repair or maintenance and deadlines to cure a violation. They may waive compliance if compliance would cause undue financial hardship to the owner.

**401. Contents of Application**

An application, or allegation of demolition by neglect, shall include the following information:

- A. Completed Howard County Government Demolition by Neglect Inspection Report, prepared by and signed by a representative of the Department of Inspections, Licenses and Permits.
- B. Clear photographs of the structures and associated building components referenced in the Inspection Report.
- C. Department of Planning and Zoning’s Notice of Alleged Violation.

**402. Historic Preservation Commission Hearing Determinations**

- A. At a hearing for determination of an allegation of demotion by neglect of a structure within a historic district, the Commission must affirm or deny the presence of a violation based on the testimony presented at the meeting and the information provided to the Commission.
  - 1. If the Commission affirms the allegation of demolition by neglect, the Commission must:
    - a. Prescribe the minimum items of repair or maintenance to cure an affirmed violation, and;
    - b. Prescribe deadlines to cure an affirmed violation.
- B. An owner may request a waiver of compliance if compliance would cause undue financial hardship.
  - 1. A property owner requesting a waiver of compliance due to financial hardship may present:
    - a. Documentary evidence of the cost of maintaining the structure, the estimated cost of restoring or stabilizing the structure, or any other financial information on which the property owner relies to establish financial hardship; and
    - b. If the property owner relies on the estimated costs to repair items of deteriorated structural integrity, a report of the structural integrity prepared by an engineer licensed in the State of Maryland, based on the engineer's in-person observations of the interior and exterior of the structure must be submitted. Estimated costs must be supported by written estimates prepared by persons qualified to provide such estimates and in sufficient detail to permit the Commission to verify the

reasonableness of the estimate.

2. In evaluating a request for waiver of compliance due to financial hardship, the Commission may also consider whether repairs or maintenance could be eligible for historic tax credit programs at the State and County level, as applicable to historic buildings.
  3. Based on the evidence presented in support of any request for a waiver due to financial hardship, the Commission may continue the hearing in order to obtain access to the property to view the structure, with the property owner's permission, and to allow the petitioner or other persons testifying to submit additional evidence.
  4. The Commission may endeavor to work out with the property owner an economically feasible plan to preserve the structure. The Commission may pursue this by asking questions of the petitioner, property owner or others present, and may continue the meeting to allow the petitioner, property owner and the Commission to pursue possible alternatives to repair the structure.
- C. A tie vote of the Commission shall constitute a denial of the allegation of violation of demolition by neglect.