

*FREDERICK COUNTY*  
*HISTORIC PRESERVATION ORDINANCE*



**Elisha Beall House**  
**(Boxwood Lodge)**  
**CR-99-01**

*EFFECTIVE JANUARY 1, 1998*

THE EFFECTIVE DATE OF THIS ORDINANCE IS JANUARY 1, 1998

ORDINANCE NO. 97-16 - 194

AN ORDINANCE RELATING TO THE PRESERVATION  
OF SITES, STRUCTURES AND DISTRICTS  
OF HISTORICAL, ARCHEOLOGICAL OR ARCHITECTURAL SIGNIFICANCE

WHEREAS, the Board of County Commissioners of Frederick County, Maryland, is empowered under the provisions of Article 66B, Section 8.01 to regulate the alteration, reconstruction, moving and demolition of sites, structures and districts of historical, archeological or architectural significance; and

WHEREAS, it is the purpose of this ordinance to safeguard the heritage of the County by preserving sites, structures or districts which reflect elements of cultural, political, archeological, and architectural history; and

WHEREAS, it is the purpose of this ordinance to stabilize and improve property values of such sites, structures, or districts; and

WHEREAS, it is the purpose of this ordinance to strengthen the local economy; and

WHEREAS, it is the purpose of this ordinance to promote the preservation and appreciation of the sites, structures, and districts for the education and welfare of the residents of the County; and

WHEREAS, the Frederick County Planning Commission held a public hearing on a draft Historic Preservation Ordinance on October 16, 1997; and

WHEREAS, after review of all the comments at this hearing, the Planning Commission recommended that the ordinance be adopted with certain revisions.

WHEREAS, this ordinance was considered by the Board of County Commissioners at a public hearing on November 18, 1997, following due notice and advertisement; and

WHEREAS, the Board of County Commissioners considered all comments received from the citizens of Frederick County at said hearing, all correspondence received and the recommendation of the Frederick County Planning Commission.

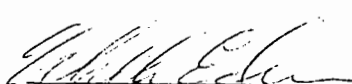
NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of County Commissions of Frederick County, Maryland, that Chapter 23, Sections 1-23-1 through 1-23-13 as shown on the attachment is hereby adopted and that it is to be added to the Frederick County Code and be titled "Historic Preservation", and

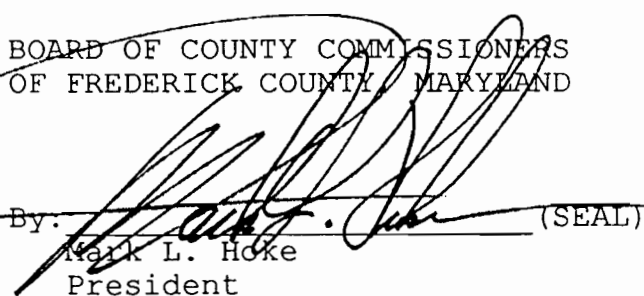
BE IT FURTHER ENACTED, that this Ordinance shall become effective on January 1, 1998.

The undersigned hereby certifies that the foregoing Ordinance was approved and adopted on the 2nd day of December, 1997.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
William E. Dennis  
County Manager

By:  (SEAL)  
Mark L. Hoke  
President

**HISTORIC PRESERVATION ORDINANCE  
FOR  
FREDERICK COUNTY**

**1. Authority.**

The Commissioners of Frederick County, Maryland, derive authority for this ordinance by virtue of its conformance with provisions of the State of Maryland Enabling Act for Historic Area Zoning (Article 66B, Section 8.01-8.17, Annotated Code of Maryland, as amended).

**2. Purpose.**

A. The preservation of sites, structures, and districts of historical, archeological, or architectural significance together with their appurtenances and environmental settings is a public purpose in the County.

B. It is the further purpose of this article to:

- (1) Safeguard the heritage of the County by preserving sites, structures, or districts which reflect elements of the county's cultural, social, economic, political, architectural, or archaeological history;
- (2) Stabilize and improve property values of such sites, structures, or districts;
- (3) Foster civic beauty;
- (4) Strengthen the economy of the County;
- (5) Preserve and enhance quality of life;
- (6) Promote the preservation and appreciation of the sites, structures, and districts for the education and welfare of the residents of the County;
- (7) Develop an awareness among property owners of the value of preserving, protecting, and restoring areas of historical, archaeological, or architectural significance; and
- (8) Enable the County to identify and officially designate sites, structures, and districts of historical, archaeological, or architectural importance to the

County in order to make such sites, structures, and districts eligible for specific benefits that may be available from various local, state, or federal programs.

### 3. Definitions.

For the purposes of the Historic Preservation Ordinance, the following words and phrases shall have the meanings respectively ascribed to them:

- A. "Alteration" shall mean any exterior change that would affect the historic, archeological, or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way, including, but not limited to, construction, reconstruction, moving, or demolition.
- B. "Appurtenances and environmental settings" shall mean all that space of grounds and structures thereon which surrounds a designated site or structure and to which it relates physically or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, public spaces, and rocks.
- C. "Certificate of Appropriateness" shall mean a certificate issued by the Historic Preservation Commission indicating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated preservation district.
- D. "Demolition by neglect" shall mean any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated preservation district, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:
  - 1. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist, as determined by the current Building Code of Frederick County; or
  - 2. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

- E. "Preservation District" shall mean a significant concentration, linkage, or continuity of sites, structures, or objects united historically, architecturally, archeologically, or culturally by plan or physical development. A preservation district shall include all property within its boundaries as defined and designated by the County Commissioners.
- F. "Exterior features" shall mean the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs, or similar items found on or related to the exterior of an historic structure.
- G. "Landmark" shall mean any designated site or structure outside the boundaries of a preservation district that is of exceptional historic, archeological, or architectural significance.
- H. "Reconstruction" shall mean the process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.
- I. "Rehabilitation" shall mean the process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.
- J. "Renovation" - see "Rehabilitation".
- K. "Resource" shall mean any building, structure, site, or object that is part of or constitutes an historic property.
- L. "Restoration" shall mean the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.
- M. "Site" shall mean the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance.
- N. "Structure" shall mean a combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof."

4. **Historic Preservation Commission.**

- A. **Historic Preservation Commission.** The County hereby creates a commission to be called the Frederick County Historic Preservation Commission.
- B. **Membership.** The Historic Preservation Commission shall consist of eleven (11) full members appointed by the County Commissioners. Two (2) alternate members shall also be appointed by the County Commissioners. The alternate members shall vote on matters before the Historic Preservation Commission in the absence of any full members in accordance with the Commission's Rules of Procedure. All members of the Commission shall be residents and/or property owners of the County of Frederick. All members shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines.

At least two (2) members of the Commission shall possess professional or academic training in one or more of the above-listed fields in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61. A good-faith effort to locate and appoint such professionals will be made and documentation as to how this effort was accomplished shall be retained by the County.

Not more than five of the Commission members shall be selected from nominations submitted by the County Chamber of Commerce, the County Builders Association, the County Bar Association, the County Board of Realtors, the Farm Bureau and the Pomona Grange #11. These organizations shall have the right not to submit nominations, in which case the Board of County Commissioners shall select members as necessary to meet the other requirements in Section 4. The County Commissioners may consult other private societies or agencies to request the names of possible members on the Commission. Geographic diversity within the County shall be a goal.

- C. **Commission Membership Qualification Criteria.** The requirement for Commission membership under the category of demonstrated special interest may be satisfied by formal training in one or more of the fields listed in paragraph B. The requirement for membership under the category of specific knowledge may be satisfied by formal post secondary education, employment or practical experience in one or more of the above-listed fields. The requirement for Commission membership under the category of professional or academic training may be

satisfied by, at a minimum, two years experience as a professional or a Bachelor's degree in one or more of the above-listed fields.

- D. **Terms.** Commission members and alternates shall be appointed for terms of three (3) years, except that the terms of the initial appointments shall be staggered so that four (4) members shall serve terms of three (3) years, four (4) members shall serve terms of two (2) years, and three (3) members shall serve terms of one (1) year, and one alternate shall serve for three (3) years and the second alternate shall serve for two (2) years, so that not more than five (5) appointments shall expire in a given year. Commission members may be reappointed.
- E. **Commission Officers.** The Commission shall elect, from its membership, a Chairperson and Vice Chairperson. The Chairperson and Vice Chairperson shall serve for one (1) year terms and shall be eligible for reelection.
- F. **Vacancy.** Any vacancy in the membership of the Commission caused by the expiration of a term, resignation, death, incapacity to discharge duties, removal for cause, or any other reason, shall be filled for a new term, or for the remainder of the term for which there is a vacancy, as the case may be, in the same manner as provided herein for the appointment of the initial members of the Commission. Any vacancy on the Commission shall be filled by the appointing authority within sixty (60) days. In the case of expiration of term, a member may continue to serve until the member's successor is appointed. Unexcused absence at three (3) consecutive meetings shall constitute resignation by the member and shall create a vacancy.
- G. **Removal for Cause.** A member may be removed from the Commission for cause, upon written charges, and after a public hearing, by the County Commissioners.
- H. **Compensation.** Commission members shall serve with the compensation that the Board of County Commissioners deems appropriate, as the Board provides in the annual budget.
- I. **Meetings.** The Commission shall hold such regular meetings and hearings as necessary to discharge its duties.
- L. **Staff.** Consistent with the County's policies and procedures, employees may be assigned to the Commission, and such services and facilities shall be made available as the County deems necessary or appropriate for the proper performance of its duties.



**5. Powers and Duties.**

- A. As part of its powers and duties, the Historic Preservation Commission:
- (1) Shall adopt rules for the organization and conduct of meetings;
  - (2) Shall act upon all applications for Certificates of Appropriateness;
  - (3) Shall maintain and update the Maryland Inventory of Historic Properties for Frederick County;
  - (4) Shall review all petitions for designation to the Frederick County Register of Historic Places and submit recommendations to the Board of County Commissioners;
  - (5) For areas which are located within a designated Historic Site, Structure, or District, or which have preservation easements, the Commission shall review any application for a zoning text or map amendment, conditional use, variance, site plan or subdivision approval, and any legislation or other proposals, including preparation and amendment of master plans, and may make recommendations thereon to the appropriate authorities;
  - (6) Shall have the right to accept and use gifts and services for the exercise of its functions which are given to the Board of County Commissioners specifically for use by the Historic Preservation Commission;
  - (7) Shall adopt rehabilitation and new construction design guidelines and criteria for construction, alteration, reconstruction, repair, moving and demolition of property in designated districts or individually designated sites or landmarks which are consistent with the Secretary of the Interior's *Standards for Treatment of Historic Properties*. Guidelines may include design characteristics intended to meet the needs of particular types of sites, structures, and districts, and may identify categories of changes that do not require review by the Commission because they are minimal in nature and do not affect historic, archaeological, or architectural significance. These design guidelines shall be used in the Historic Preservations Commission's review of applications for Certificates of Appropriateness;
  - (8) May, at the request of an owner or applicant, offer consultation with respect to changes to interior features; and
  - (9) Shall review and recommend for action by the Board of County Commissioners the acquisition of historic preservation easements on

designated landmarks, structures, or sites and, when deemed appropriate by the Commission, sites or structures located in, or adjacent to, a designated district, consistent with the County's ordinances, resolutions, local public law, policies and procedures.

- B. In addition, the Historic Preservation Commission shall have all the powers and authority enumerated in the Annotated Code of Maryland, Article 66B, Sections 8.01-8.17., as presently codified and as may be amended from time to time.

**6. Designation.**

- A. **Designation.** The County Commissioners of Frederick County may designate boundaries for landmarks, sites, structures, or districts of historic, archeological, or architectural significance after a public hearing thereon, consistent with adopted criteria for such designation.

- B. **Criteria for designation.** In considering any property for designation to the Frederick County Register of Historic Places, the reviewing agencies, boards, or commissions shall consider the following criteria:

- (1) Historic, Archaeological, and Cultural Significance

- a. The property has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the County, state, or nation;
- b. The property is the site of an historic event;
- c. The property is identified with a person or group of persons who influenced society; or
- d. The property exemplifies the cultural, economic, social, political, or historic heritage of the County and its communities.

- (2) Architectural and Design Significance

- a. The property embodies the distinctive characteristics of a type, period, or method of construction or architecture;
- b. The property represents the work of a master craftsman, architect, or builder;
- c. The property possesses significant artistic value;

- d. The property represents a significant and distinguishable entity whose components may lack individual distinction;
- e. The property represents an established and familiar visual feature of the neighborhood, community, or County, due to its singular physical characteristics, landscape, or historical event; or
- f. The property is a rare example of a particular period, style, material, or construction technique.

**C. Procedure for Petitioning for Designation.**

- (1) Petitions for designation or expansion shall be filed with, and on forms provided by, the Frederick County Planning Department.
- (2) The Planning Department shall refer the petition to the Historic Preservation Commission to determine if the property contained in the petition meets the requirements for historic designation. The Planning Department shall also notify other appropriate agencies for comment.
- (3) A petition for a proposed individual site shall be filed by, or with the written consent of, the legal owner of such site.
- (4) A petition for a proposed historic district shall be filed by a legal owner or owners of property within the district.
- (5) The Historic Preservation Commission, in a public meeting, shall determine if the property contained in the petition meets the requirements for historic designation as set forth in this section. If the requirements are so met, the Historic Preservation Commission shall recommend historic designation to the Board of County Commissioners. Legal property owners within a proposed historic district shall be notified of the nomination by certified mailing.

The recommendation for an historic district shall proceed to the County Commissioners if, within sixty (60) days of the Historic Preservation Commission finding, concurrence is obtained from both:

- a. Owners of at least fifty-one percent (51%) of the assessed valuation of the real property located within the proposed historic district; and
- b. At least fifty-one percent (51%) of the owners of the real

property located within the proposed historic district.

In determining the owner(s) of real property for purposes of this section:

- a. multiple owners of a single parcel are treated as one owner; and,
  - b. A single owner of multiple parcels is treated as one owner.
- (6) **Areas of Special Merit:** If a property or district within Frederick County shall be deemed by the Historic Preservation Commission to possess unusual and special historic value to the citizens of Frederick County, the Historic Preservation Commission may initiate a petition for historic designation. In this instance, the petition shall first be sent to the Maryland State Historic Preservation Officer for his or her concurrence that said property has unusual and special historic value. If the Maryland State Historic Preservation Officer does concur with the Historic Preservation Commission, then the petition shall proceed to the County Commissioners. A petition for designation of an Area of Special Merit shall require a favorable vote of the County Commissioners and the concurrence of the property owner(s) in the proposed area of special merit to receive historic designation.

- D. Limitations on Filing of Petitions.** If the Board of County Commissioners declines to designate a property proposed for designation, the identical petition for designation may not be re-filed within one (1) year of the final decision by the County Commissioners. If the Board of County Commissioners declines to expand the boundary of a previously designated historic property, a petition for expansion which is identical to the rejected petition may not be re-filed within one (1) year of the final decision by the County Commissioners.

## **7. Application for Certificate of Appropriateness and Commission Review.**

- A. Application for Certificate of Appropriateness.** Before the construction, alteration, reconstruction, moving, or demolition is undertaken of a designated landmark, site, or structure, or site or structure within a designated district, if an exterior change is involved which would affect the historic, archeological, or architectural significance of a designated landmark, site, or structure, or structure within a designated district, the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a Certificate of Appropriateness with the Commission for permission to construct, alter, reconstruct, move, or demolish the landmark, site, or structure. Every application

shall be referred to and considered by the Commission and accepted or rejected by the Commission. An application which is identical to a rejected application may not be resubmitted within a period of one year after the rejection. No Certificate of Appropriateness shall be granted until the Commission has acted thereon as hereinafter provided.

**B. Application Review.**

- (1) In reviewing applications, the Commission shall give consideration to the historic, archeological, or architectural significance of the landmark, site, or structure and its relationship to the historic, archeological, or architectural significance of the surrounding area; the relationship of the exterior architectural features of a landmark or structure to the remainder of the landmark or structure and to the surrounding area; the general compatibility of proposed exterior design, scale, proportion, arrangement, texture, and materials to the landmark, site, or structure and to the surrounding area; and any other factors including aesthetic factors which the Commission deems to be pertinent.
- (2) The Commission shall consider only exterior features of a landmark or structure and shall not consider any interior arrangements.
- (3) The Commission shall not disapprove an application except with respect to the several factors specified in paragraph (1) above.
- (4) The Commission shall be strict in its judgment of plans for sites or structures determined by research to be of historic, archeological, or architectural significance. The Commission shall be lenient in its judgment of plans for sites or structures of little historic, archeological, or architectural significance, or of plans involving new construction, unless in the Commission's judgment such plans would seriously impair the historic, archeological, or architectural significance of surrounding sites or structures. The Commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one (1) period.
- (5) (i) If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure or for the moving or demolition of a structure, the preservation of which the Commission considers to be of unusual importance to Frederick County or of unusual importance to the State or the nation, the Commission shall attempt to formulate an economically feasible plan with the owner(s) of the site or structure for the preservation of the site or structure. Unless the Commission is satisfied that the

proposed construction, alteration, or reconstruction will not materially impair the historic, archeological, or architectural significance of the site or structure, the Commission shall reject the application, filing a copy of its rejection with the Department of Permits and Inspections, where required.

- (ii) If an application is submitted for construction, reconstruction, or alteration, or for the moving or demolition of a site or structure that the Commission considers to be of unusual importance and no economically feasible plan can be formulated, the Commission shall have ninety (90) days, from the time it concludes that no economically feasible plan can be formulated, to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

In the case of a site or structure considered to be valuable for its historic, archeological, or architectural significance, the Commission shall approve the proposed construction, reconstruction, alteration, moving, or demolition despite the provisions of Section 7(B)(5) of this Article if:

- a. The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the County;
- b. Retention of the site or structure would cause undue financial hardship to the owner; or
- c. Retention of the site or structure would not be in the best interests of a majority of persons in the County.

- C. **Commission Decision.** The Commission shall file with the Department of Permits and Inspections a certificate documenting its approval, modification, or rejection of each application and plans submitted to the Commission for review. Work shall not be commenced and no building permit shall be issued on any project until notification of approval of a Certificate of Appropriateness has been received by the Department of Permits and Inspections from the Commission. The failure of the Commission to act upon a completed application within forty-five (45) days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the Commission or the application has been withdrawn.

- D. **Routine Maintenance.** Nothing in this Article shall be taken or construed to prevent maintenance that will have no material effect on the exterior fabric or features of a designated landmark, site, structure, or district, or to prevent customary farming operations or landscaping that will have no material effect on the historic, archeological, or architectural significance of a designated landmark, site, structure, or district.

**8. Demolition by Neglect.**

- A. In the event of demolition by neglect, the Commission may request the Department of Permits and Inspections to notify, in writing, the property owner of record as reflected on the tax rolls of Frederick County, and the occupant or other person responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- B. Prior to the issuance of a written notice, the Commission may request the Department of Permits and Inspections to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.
- C. The notice shall provide that corrective action shall commence within thirty (30) days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the property, or any person of record with any right, title, or interest therein, may, within ten (10) days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Commission upon thirty (30) days written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Commission determines may have an interest in the proceedings.
- D. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request Department of Permits and Inspections corrective action to comply with the notice within thirty (30) days of the date of the Commission's determination.
- E. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the notice within the time required, the Commission may request that the Department of Permits and Inspections institute any of the remedies and penalties provided by law for such violations.

**9. Maryland Historical Trust.**

The Commission may designate the Maryland Historical Trust to make an analysis of and report recommending the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the County. The report may include proposed boundaries of sites, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures, or districts to be preserved.

**10. Appeals.**

In the event that any party is aggrieved by a decision of the Commission or the Board of County Commissioners, the party has the right of appeal to the Circuit Court in accordance with the Maryland Rules of Procedure 7-201 and following and in accordance with the provisions of Maryland Annotated Code, Article 66B.

**11. Violations.**

- A. Any person, firm, or corporation, or agent of such, who violates a provision of this ordinance by willfully performing or allowing to be performed any construction, alteration, moving, demolition (including demolition by neglect) or repair of any structure within a historic district without first obtaining a Certificate of Appropriateness (as required), failing to comply with any final notice issued pursuant to this subtitle, or disobeying or disregarding a decision of the Historic Preservation Commission, may be liable for a civil monetary fine of one hundred dollars (\$100.00), and each day's violation of the provision hereof shall constitute a separate offense.
- B. In addition to other remedies and penalties, where there is any violation of this ordinance, the Department of Permits and Inspections, the Historic Preservation Commission, and the Zoning Administrator shall institute appropriate action, where applicable, to prevent, enjoin, abate or remove such violations.

**12. Changes and Amendments.**

The Historic Preservation Commission will review this ordinance every five (5) years to ensure that its provisions meet the current needs of Frederick County. In addition, this ordinance may from time to time be amended, supplemented, changed, modified, or repealed by the Board of County Commissioners. Any person or officer, department, board, commission or bureau of the County may petition for such change or amendment; however, no such change or amendment shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall be



heard. At least fourteen (14) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. The Board of County Commissioners shall, prior to any public hearing, refer all proposed changes and amendments to this ordinance to the Historic Preservation Commission for report and recommendations.

**13. Severability.**

If any provision of this article or the application thereof to any person or circumstances is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this article which can be given effect without the invalid provision or application, and to this end, all the provisions of this article are hereby declared to be severable.

**14. Applicability.**

The provisions of this Chapter shall apply to all unincorporated lands within the territorial limits of the County.