

Frederick County Historic Preservation

Economic Hardship Application

The intent of the Frederick County Historic Preservation Ordinance (Chapter 1-23) is to preserve sites, structures, and districts of historical, cultural, archeological, or architectural significance, along with the physical and visual nature of their surrounding grounds and environmental setting.

Any owner seeking an exemption from the provisions of this Ordinance, due to economic hardship, must provide clear and convincing evidence to obtain a Certificate of Economic Hardship.

What is a Certificate of Economic Hardship? A Certificate of Economic Hardship is a letter issued by the Historic Preservation Commission when compliance with the provisions of the Historic Preservation Ordinance have deprived the owner of the property of all reasonable use of, or economic return on, the property. The Historic Preservation Commission reviews applications to determine if the owner does not have the financial ability to comply with the provisions of the Ordinance.

Owners applying for an economic hardship exemption have the burden of proving, by clear and convincing evidence, that complying with the requirements of the Historic Preservation Ordinance will create an extreme economic impact on the owner and that all feasible alternatives have been exhausted.

What is the approval process? All applications are submitted to the Planning Department for review. A staff report is prepared and taken before the Historic Preservation Commission. The Historic Preservation Commission holds a public hearing and determines whether to approve the Certificate of Economic Hardship.

Owners may apply for a Certificate of Economic Hardship when:

- 1) Denial of permission to alter or demolish will diminish the value of the subject property to leave substantially no value.
- 2) Sale or rental of the property is impractical, when compared to the cost of holding the property for uses permitted within its zoning.
- 3) An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or not feasible.
- 4) Rental at a reasonable rate of return is not feasible.
- 5) Denial of an application would damage the owner of the property unreasonably in comparison to the benefit conferred to the community.

6) All means of involving County sponsored incentives, such as building code modifications, changes in the zoning ordinance, loans, grants, and reimbursements, have been explored to relieve possible economic disincentives.

Applicant Information

Project or Property Name: _____

Address of Property: _____

Name of Applicant: _____

Applicant's Mailing Address: _____

Phone: _____ Email: _____

Property Information

Ownership: Private Public

Present Use of Property: _____

Original Use of Property: _____

Zoning: _____

Designated to the County Register: _____ Date: _____ By Whom: _____

Description of Work:

Applicant's Interest in Property

Current Owner

Architect*

Contractor*

Other*. If so, please explain: _____

** If the applicant is not the legal owner of the property, written consent from the property owner must be provided.*

Name of Property Owner: _____

Property Owner's Mailing Address: _____

Phone Number: _____ Email: _____

Legal Description of Property (i.e. tract, block, or lots):

Documentation required for proof of legal owner consent:

1. *If property is owned by a single fee title owner, attach a written and signed affidavit from owner authorizing the action.*
2. *If property is owned by a corporate entity, attach a copy of the Resolution of Board of Directors authorizing the action.*
3. *If property is owned through a joint venture or partnership, attach a copy of agreement authorizing action on behalf of the joint venture or partnership.*

I hereby affirm that I am the fee title owner of the property or have sufficient and written authorization from the owner to pursue the described action.

Signature _____ Date _____

Acknowledgement of Responsibility

1. This is to certify that I am responsible for complying with all Frederick County requirements regarding this request. This application will be processed under the name provided below.
2. By signing the application, I am acknowledging that I have read and understood the instructions provided for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that the documents provided are considered public records and may be made available to the public.
3. I understand that my application will not be processed until the application is deemed complete by the assigned Historic Preservation planner from the Planning Division. I acknowledge that a complete application includes all the required submittal requirements and provided documents comply with all applicable requirements for the specific applications.

Name of Applicant: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Providing Evidence of Economic Hardship

The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship as a result of denying said owner's proposals to alter or demolish the subject property. Any finding in support of economic hardship shall be based solely on the hardship of the property.

In this process, the property owner must provide evidence that the decision constitutes a denial of all reasonable beneficial or economically viable use of a property without just compensation.

The Historic Preservation Commission reserves the right to request any other information considered necessary to determine whether the property does yield or may yield a reasonable return to the owners.

Evidence may include, but is not limited to, the following items:

- (1) The amount paid for the property, date it was purchased, and a description of the relationship, if any, between the current owner and/or applicant and from whom the property was purchased.
- (2) Real Estate taxes for the past three (3) years, and the assessed value of the property for the two (2) most recent assessed valuations.
- (3) Any state or federal income taxes related to the property for the last three (3) years
- (4) If the property is or has been an income-producing property, annual gross and net income generated by the property for the last three (3) years of operation, itemized operating and maintenance expenses for the last three (3) years of operation, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
- (5) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years
- (6) Licensed appraisals obtained within the last three (3) years in connection with the purchase, financing, or ownership of the property.
- (7) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed.

- (8) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc.
- (9) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
- (10) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic preservation commission concerning the appropriateness of proposed alterations.
- (11) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction versus after renovation of the existing property for continued use.
- (12) Testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure.
- (13) Indicate if there was knowledge of the landmark designation at the time of acquisition or whether the property was designated after acquisition.
- (14) Condition of the property at time of purchase and the applicant's plans at the time of purchase.
- (15) Provide a list of economic incentives and/or funding available through federal, state, county, or private programs.
- (16) Show all attempts to sell or lease the property, including all prices asked and offers received, if any, within the previous three (3) years. This determination can include testimony and relevant documents regarding:
 - a. Any real estate broker or firm engaged to sell or lease the property.
 - b. Reasonableness of the price or rent sought by the applicant.
 - c. Any advertisements placed for the sale or rent of the property.
- (17) Description of past and current use of property.
- (18) An itemized report that identifies what is deficient if the building does not meet minimum county building codes standards or violations of this code.
- (19) Consideration of map amendment, conditional use, or other land use processes to alleviate hardship.
- (20) Any other evidence that demonstrates economic hardship including explanations.