

RULES OF PROCEDURE

FREDERICK COUNTY HISTORIC PRESERVATION COMMISSION (revisions adopted 11-6-2024)

FOREWORD

These standard procedures are issued to assist the Frederick County Historic Preservation Commission, its staff and County agencies, and the general public in the orderly and efficient conduct of all matters with which the Commission is concerned.

OBJECTIVE

In accordance with Title 8 of the Land Use Article of the Annotated Code of Maryland and Chapter 1-23 of the Frederick County Code, the Frederick County Historic Preservation Commission seeks to foster and safeguard the heritage of the County by preserving the sites, structures, and districts that reflect elements of the County's cultural, social, economic, political, architectural, or archeological history.

SEC. 1. DEFINITIONS

- 1.1 The word "Commission" shall refer to the Frederick County Historic Preservation Commission.
- 1.2 The word "Chair" shall refer to the Chair of the Frederick County Historic Preservation Commission.
- 1.3 The word "Vice-Chair" shall refer to the Vice-Chair of the Frederick County Historic Preservation Commission.
- 1.4 The word "Staff" shall refer to the Frederick County Division of Planning and Permitting Staff.
- 1.5 The word "Council" shall refer to the County Council of Frederick County.
- 1.6 The word "applicant" shall refer to any individual or group submitting an application for Certificate of Approval (per Frederick County Code, Chapter 1-23-7), a Petition for Designation to the Frederick County Register of Historic Places (per FCC Chapter 1-23-6), Petition for Delisting from the Frederick County Register of Historic Places (per FCC Chapter 1-23-6.1), or application for a certificate of Economic Hardship (per FCC Chapter 1-23-9).

SEC. 2. OFFICERS AND COMMITTEES

- 2.1 **Elections.** The Commission, by a majority vote, shall elect a Chair and a Vice-Chair annually in the month of June. The term for Chair and Vice-Chair is for one year. Officers may not serve more than four consecutive full terms in the same office. Only those Commission members present may vote.
- 2.2 **Presiding Officer.** The Chair, or in the Chair's absence, the Vice-Chair, shall preside at all meetings and hearings of the Commission. In the absence of both officers, a temporary

Chair shall be elected by the members present. The presiding officer shall decide on all points of order and procedure, subject to these rules, unless otherwise directed by a majority of the Commission members present. The presiding officer may appoint a parliamentarian to assist in the implementation of these rules of procedure at his or her discretion.

2.3 Special Committees. Special committees may be appointed by the Chair for specific purposes or study.

2.4 Training. Each Commissioner shall attend at least one training session or educational workshop per year, which is certified by the Maryland Historical Trust as meeting the Certified Local Government requirements for yearly training.

SEC. 3. MEETINGS

3.1 Regular Meetings. Regular meetings shall be held on the first Wednesday of each month unless postponed to such a day and time as directed by the Chair in consultation with Staff. Meetings will be advertised on the County's calendar and agendas will be posted on the County's website.

3.2 Special Meetings. Special meetings may be held to address issues of an urgent nature. These meetings shall be conducted according to procedures governing regular meetings and, when possible, shall be scheduled by the Chair with at least seven (7) days' notice provided to all Commission members.

3.3 Attendance. It shall be the duty of each Commission member and alternate member to attend all regular meetings. Should any Commission member be absent from one-half or more of all regular meetings held during any (6) six-month period, unless there is an extenuating circumstance, the Chair may recommend that the County Executive request the Commission member's resignation. Absences at three (3) consecutive regular meetings without directly (or by proxy) notifying Staff or Chair in advance of a meeting, or within a reasonable amount of time after a meeting, shall constitute immediate resignation by the Commission member and shall create a vacancy.

3.4 Order of Business. The order of business shall be in accord with the agenda prepared by Staff, in consultation with the Chair, and submitted to the Commission at least nine (9) days before the regularly scheduled meeting. All Commission members who want to add to the agenda shall notify the Chair and Staff of their requests at least five (5) days prior to the scheduled meeting.

SEC. 4. VOTING

4.1 Quorum. A quorum shall exist when a majority of the appointed Commission members are being present for a meeting.

4.2 **Voting.** Questions put to a vote are decided by a majority of the Commission members present and voting, assuming a quorum is present. No decision shall be made in the absence of a quorum. A failure or defeat of the motion to approve constitutes a denial.

4.3 **Tie Votes.** A tie vote by the Commission shall be interpreted as a defeat of the motion upon which the vote was taken.

4.4 **Requirements for Voting.** To be eligible to vote on a matter, a Commission member shall have attended all meetings, or shall have become familiar with the record of any meetings from which the member was absent at which the matter was discussed. To vote on the designation of a property, the Commission member must have visited the property in person.

4.5 **Recording Votes.** Commission members' votes and abstentions shall be recorded on each motion.

4.6 **Physical Presence Required.** A Commission member must be physically present to cast a vote, unless the meeting is held virtually.

4.7 **Appeals.** If an applicant is aggrieved by a decision of the Commission or the County, the applicant has the right of appeal to the Circuit Court in accordance with Maryland Rules of Procedure 7-201 and the provisions of Md. Code Ann., Land Use Article. If the State enabling legislation governing this action changes, these Rules and Procedures shall reflect the change and shall be modified accordingly.

4.8 **Ethics Ordinance.** Commission members shall comply with the Frederick County Ethics Ordinance (Frederick County Code Chapter 1-7.1) and are encouraged to consult the Frederick County Ethics Commission or Frederick County Attorney's Office as to the propriety of their voting on any matters that may involve conflicts of interest.

SEC. 5. PUBLIC HEARINGS

5.1 **Advertising Hearings.** All public hearings shall be advertised in accordance with local and State laws. Staff shall publish notices on the Frederick County website at least seven (7) days prior to the scheduled hearing. A copy of the agenda, staff reports, and relevant attachments shall be provided to each applicant for each item posted on the agenda approximately seven (7) days prior to the meeting. The staff reports will be posted on the website with the agenda.

5.2 **Open Meetings.** All Commission meetings shall be open to the public as required by the Maryland Open Meetings Law (Maryland Code, General Provisions Article, sections 3-101 through 3-501). Any interested person is entitled to appear and be heard by the Commission before it reaches a decision on any matter.

5.3 Requirement to Vote at Public Meetings. The voting on such decisions shall be held during a public meeting, and the Commission shall keep an open record of its resolutions, proceedings, and actions that shall be available for public inspection during business hours at the Frederick County Division of Planning and Permitting.

5.4 Closed Sessions. Nothing contained herein shall be construed to prevent the Commission from holding closed sessions from which the public may be excluded in accordance with State law, but no ordinance, resolution, regulation, or recommendation shall be finally acted upon at such a closed session.

5.5 Record of Proceedings. It shall be the duty of Staff to keep a true and accurate, though not verbatim, record of all proceedings at all meetings and public hearings. The basis for decisions on all applications shall be recorded in the minutes as well as on the application. Minutes shall be kept and, following each meeting, the minutes shall be typed and distributed to the individual Commission members at least (5) five days prior to the next meeting. The accuracy of the minutes shall be voted on at the next regularly held Commission meeting, and the approved version shall be filed with official county records. Approved minutes shall be available on the County's website. The presiding officer at the meeting shall sign any resolutions or other official documents, as approved.

SEC. 6. PROCEDURES FOR PUBLIC HEARINGS

6.1 Order of hearing. The order of a hearing shall be as follows:

- (A) Introduction of case by the presiding officer
- (B) Presentation of Staff Report
- (C) Presentation by the applicant or their agent or attorney
- (D) Questions by members of the Commission
- (E) Public Comment
- (F) Applicant rebuttal
- (G) Discussion/consideration by Commission
- (H) Motion made with a statement of basis for the decision
- (I) Vote by the Commission

6.2 Testimony. Any person providing testimony to the Commission must provide their name and address or organizational affiliation for the record and swear or affirm that they are testifying truthfully. The Chair shall administer the oath as part of the process of

testifying and may administer the oath *en masse* at the outset of the meeting to all persons intending to testify.

6.3 Acting Upon Applications. Approval or denial of any application shall be made upon a motion, which motion shall state the reasons for approval, denial, or approval with conditions. For County Register Designations, the Commission shall review the information presented and make its decision to approve, disapprove, or approve with conditions, based on Chapter 1-23-6 of the Frederick County Code.

For a Certificate of Approval, the Commission shall act upon a completed application within forty-five (45) days from the date that the completed application was filed with the Commission, unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the Commission or unless the application has been withdrawn. If the Commission is unable to act on the application within the 45 days due to exigent or unusual circumstances, then the Commission may grant itself an additional 45-day period to act.

The Commission shall review the information presented and make its decision to approve, disapprove, or approve with conditions, based on the County's adopted *Design Guidelines*, §1-23-7 of the Frederick County Code, the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, and design guidelines adopted for a particular district, as applicable.

6.4 Continuing Cases. The Commission may postpone or continue any case due to a need for additional information from the applicant to reach a decision and may continue a case to a specific date to receive and review the required information.

An applicant or agent may request a continuance to the next meeting or other specified meeting by appearing at the originally scheduled meeting and making a request orally on the record or by submitting a written request before the hearing.

6.5 Denial of Application. If an application is denied, the applicant cannot bring the same application forward to the Commission until one year has passed.

SEC. 7. ECONOMIC HARDSHIP REVIEWS

7.1 Purpose. The intent of this section is to provide relief for applicants after the denial of an Application. An applicant may request the Commission reconsider their denial of an application by asserting economic hardship resulting from the denial.

7.2 Process. No later than thirty (30) days after the date of the denial of the application, an applicant may file a Certificate of Economic Hardship application for reconsideration of the decision. The application shall be filed with the Division of Planning and Permitting and must be received within the 30-day period. The applicant must provide clear and convincing evidence of economic hardship to the Commission. Any personal financial information shall not be disclosed to the public.

The Commission shall hold a public hearing on the application for a Certificate of Economic Hardship. The hearing shall follow the order described in Section 6.1 above.

7.3 **Acting Upon the Application.** Approval or denial of the application for a Certificate of Economic Hardship shall be made by a motion, which motion shall state the reasons for approval or denial. Approvals granted based on Economic Hardship requests do not set a precedent for approvals of similar applications where economic hardship is not a factor.

SEC. 8 PROCEDURES FOR WORKSHOPS

8.1 **Purpose.** Upon request by a property owner, a workshop may be scheduled to provide an applicant with the opportunity to present propose work to the Commission prior to the formal submission of an application for a Certificate of Approval.

8.2 **Order.** The order of the workshop will follow that of a public hearing outlined in Section 6.1 above. Workshops may be scheduled during any Commission meeting.

8.3 **Discussion.** Following the presentation, the Commission shall discuss the feasibility of the proposal. The Chair or a Commission member may solicit the opinion of Staff, consultants or the public as part of the discussion. Any comments made by the Commission members at a workshop are in no way to be interpreted as an approval of the proposed project. Absence of comment on any aspect of the presentations does not indicate acceptance.

SEC. 9. APPLICATIONS TO THE COMMISSION

9.1 **Representation.** An applicant may appear before the Commission with or without counsel or may be represented by an agent. In the absence of any personal appearance on behalf of the applicant, the Commission may proceed to dispose of the matter on the record before it.

9.2 **Schedule for Filing Applications.** All applications requiring Commission approval must be filed at least 30 days in advance of a regular monthly meeting.

SEC. 10. FINAL DISPOSITION OF ALL MATTERS

10.1 **Letters to County Council/County Executive and Applicant.** The disposition of all formal applications and requests before the Commission requiring further action shall be in the form of a letter of recommendation to the County Council or County Executive. The applicant shall be notified by the letter of the action taken by the Commission.

SEC. 11. CONDUCT OF COMMISSION MEMBERS

11.1 **Speaking for the Commission.** A member shall not speak for the Commission except as authorized by the Commission. In any public or private statement concerning Commission affairs, members shall carefully indicate whether they are speaking for the

Commission or for themselves whether in an individual capacity or on behalf of another individual or group.

11.2 Conduct at Meetings. Members shall conduct themselves at Commission meetings in a fair, understanding, and courteous manner. They shall seek to be considerate of all individuals, attitudes, and differences of opinion involved in official Commission business.

11.3 Conflict of Interest. Members of the Commission shall comply with the Frederick County Ethics Ordinance or if unclear, as interpreted by the County Attorney's Office. In the event of a possible conflict of interest, it shall be the responsibility of the member to bring the possible or actual conflict to the attention of the Chair. In any case where there is an actual conflict of interest, the member shall be recused and shall not participate as a member in the matter and must leave the room in which the Commission is meeting.

SEC. 12. EX PARTE COMMUNICATION

12.1 Ex Parte Communications Prohibited. An ex parte communication includes an oral or written communication not on the public record to which reasonable prior notice to all parties is not given. Such communication between Commission members and interested persons is prohibited if relevant to the merits of an active Commission proceeding. Members should not discuss applications with applicants or other interested persons outside the confines of a public meeting, but should recommend that the person(s) contact Staff with any questions or concerns.

12.2 Disclosure of Ex Parte Communications. If a Commission member engages in an ex parte communication, the Commission member should, at the next meeting in which the relevant application is to be discussed, state the nature of the communications and submit for the record any written communication received, any written response to a communication, a memorandum that states the substance of each oral communication received, and a memorandum that states the substance of any oral response to a communication. Alternatively, the Commission member may recuse himself or herself from voting on that specific application and leave the room in which the Commission is meeting.

SEC. 13. POLICY REGARDING STAFF HANDLING OF OFFICIAL REQUESTS FOR COMMENTS BY COMMISSION

13.1 Comments Requested of Commission. When an official request for Commission comment is received by Staff, the request shall be placed on the agenda of the next regular meeting for consideration and action by the Commission. When a time deadline for response is specified that does not allow for scheduling on an agenda, the following procedure shall be used:

- (A) Staff shall research the issues and draft a response.

(B) Staff shall consult the Chair and Vice-Chair regarding the draft response, and any additional Commission members or other sources of information as directed by the Chair and Vice-Chair.

(C) Upon agreement by the Chair and Vice-Chair on the text of the draft response, Staff shall prepare the final response, which shall indicate in its text that the comments therein are those of the Chair and Vice-Chair, according to the adopted Rules of Procedure of the Commission.

(D) The Chair and Vice-Chair, upon reviewing the request for comments and the draft response, may refer the request to the full Commission for consideration and action. In this case, the request for comments shall be placed on the agenda of the next regular meeting. Staff shall notify the requestor of the date of the meeting and shall provide the comments to the requestor in writing on the next business day following the meeting.

13.2 Comments to State and Federal Agencies. It shall be the responsibility of the Staff to determine whether routine notification of actions between State and/or Federal agencies that are covered by Memoranda of Understanding between those agencies warrant initiating the comment procedure(s) described in Section 13.1.

SEC. 14. ADMINISTRATIVE STAFF LEVEL APPROVALS

14.1 Administrative Approvals. The Historic Preservation Planner may review and approve Certificates of Approval which propose simple alterations that will have an insignificant impact on the historic character of the County designated resource.

14.2 Authority. Section 1-23-5 (A)(7) of the Frederick County Code states that the Commission “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.” The Commission has identified which applications meet this criteria and may be approved administratively, on Exhibit 1, which is attached to these Rules of Procedure.

14.3 Approval Criteria. Administrative approvals will be based on the Commission’s most recent design guidelines and *The Secretary of the Interiors’ Standards for the Rehabilitation of Historic Properties*.

14.4 Guidelines.

(A) Administrative approval for the items included on Exhibit 1 is authorized by the Commission only if the staff member approving the application is a qualified historic preservation planner who meets the Professional Qualifications referenced in 36 CFR¹ Part 61 in the fields of History, Architectural History, Archeology, Architecture, Historic Architecture, Historic Landscape Architecture, or Historic Preservation.

¹ Code of Federal Regulations

(B) Administrative approval authority and changes to classifications of approvals shown on Exhibit 1 may be made at any public hearing of the Commission.

(C) Staff will provide an update of administrative approvals to the Commission at its monthly meeting.

(D) If Staff: (1) is uncertain whether or not the application meets the criteria for issuing an administrative approval, or (2) recommends denial of an application, or (3) determines that the application does not meet the criteria for administrative approval, the application will be placed on the next available Commission meeting agenda.

14.5 Procedures.

(A) The applicant will file for administrative approval using an application for Certificate of Approval.

(B) If the application fits within the administrative approval criteria in Exhibit 1, Staff will endeavor to review and act within five business days from the date that the application is deemed complete. Any complete application not acted upon after five business days will be placed on the next available Commission meeting agenda, and will be subject to the publishing and notice requirements under Section 5.1 of these Rules of Procedure.

(C) Staff will re-evaluate nominations to the County Register for contributing and non-contributing resources located on the property if not previously determined in the nomination, prior to reviewing and acting upon an application for Certificate of Approval. Any resource for which Staff is unable to determine the contribution level, will be reviewed by the Commission at the next available meeting for a determination.

(D) If the application meets the appropriate guidelines for administrative approval, Staff may issue the Certificate of Approval.

SEC 15. ROUTINE MAINTENANCE – NO CERTIFICATE OF APPROVAL REQUIRED

Section 1-23-7(D) of the Frederick County Code states that “nothing in this chapter 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....” The Commission considers the following activities to be routine maintenance of historic properties. These activities do not require a Certificate of Approval. However, other County permits may be necessary.

(A) Re-nail loose pieces of wood.

- (B) Reattach non-historic siding and remove dents.
- (C) Clean and paint siding.
- (D) Up to 25% in-kind replacement of a building material or feature, with the exception of masonry repairs and entire window and door replacement. Masonry repairs and entire window or door replacements will require Administrative or Commission approval.
- (E) Minor repairs to windows, including caulking, reglazing, weather-stripping, mechanical repairs and replacement of broken windowpanes, in-kind, as long as window size and style are not altered.
- (F) Minor repairs to doors, including caulking, weather-stripping, or replacement of broken door glass, in-kind.
- (G) Repair and replacement, in-kind, of gutters and downspouts.
- (H) Exterior painting of a previously painted surface.
- (I) Wood repairs including sanding, epoxy, fillers, consolidants, and Dutchmen repairs.
- (J) Repairs to storm and screen windows and doors, including replacing broken parts.
- (K) Replace or install doorbells, peepholes, conventional keyed deadbolts, or lock cylinders.
- (L) Repair existing walkways, parking areas, patios, driveways or other paved areas, in-kind, without expanding the paved area.
- (M) Seal, repair, or overlay existing asphalt.
- (N) Installing vegetable, flower, and rain gardens, and shrubs. Landscape maintenance, including pruning trees and shrubs (this does not include removal of landscaping required to screen mechanical equipment or utilities).
- (O) Replacement of existing mechanical equipment.
- (P) Repair or replace, in-kind, locks, latches, and other hardware.
- (Q) Cleaning with the gentlest means possible (water at standard pressure, but excluding sandblasting and high-pressure water blasting).
- (R) Any other minor repair not listed.

Routine maintenance activities must be documented by submitting before and after photographs to Staff for the record. Photographs must be at least 4" x 6" color prints or digital and in sufficient detail to demonstrate that no material effect on the exterior fabric or features of a designated landmark, site, structure, or district has occurred. In some instances, a material sample may be required to be submitted as well.

SEC. 16. IMPLEMENTATION OF RULES OF PROCEDURE

16.1 Roberts Rules. If in any case these Rules of Procedure do not address a particular process, a recent version of Roberts Rules of Procedure shall be followed.

16.2 Election of Parliamentarian. The Commission may elect from among its members a parliamentarian to enforce the rules of procedure.

16.3 **Amendments to Rules.** Proposed amendments to these Rules of Procedure may be introduced at any meeting of the Commission and voted at any subsequent regular meeting, passage requiring a majority vote of the entire membership.

EXHIBIT 1		
Classification of Approvals by Scope of Work		
	Administrative Review and Approval	HPC Review and Approval
Type of Work		
I. Architectural Work		
a. New Construction		
i. New accessory structures no larger than 250 square feet	✓	
ii. Any new structure that is greater than 250 square feet		✓
b. Relocation of Structures		✓
c. Demolition		
i. Contributing structures		✓
ii. Non-contributing structures	✓	
d. Additions		
i. Addition of spaces such as rooms		✓
ii. Addition of front or side decks or porches or rear decks		✓
iii. Addition of rear porches	✓	
e. Windows and Doors		
i. Replacement of windows and exterior doors on contributing structures		✓
ii. Replacement of windows and exterior doors on non-contributing structures	✓	
iii. Installation or replacement of storm windows or doors on contributing structures		✓
iv. Installation or replacement of storm windows or doors on non-contributing structures	✓	
f. Roofs		
i. Roof repair or replacement where there is no change in material	✓	
ii. Alteration of roof form (including alteration, removal, or construction of dormers)		✓
iii. Installation of skylights		✓
iv. Installation of solar panels not on visible street facing or dominate elevations	✓	
v. Construction of new or modification of existing chimneys		✓
vi. Installation of gutters and downspouts where proposed change in style	✓	
g. Other Building Alterations		
i. Repair or in-kind replacement of missing or deteriorated architectural details such as trim or other millwork, stairs or stoops, porch decking or ceilings, columns, railings, balusters, brackets, shutters, etc., that is more than the 25% routine maintenance	✓	

ii. Removal of vinyl, aluminum, asbestos, or other artificial siding when the original siding is to be repaired and/or replaced in kind	✓	
iii. Change in original cladding material or style		✓
iv. Repair of masonry materials and repointing that matches existing or original materials	✓	
v. Installation of vents or venting pipes in locations not visible from the public right-of-way	✓	
vi. Installation of satellite dishes or antennas in areas not visible from the public right-of-way	✓	
II. Site Work		
a. Paved Areas		
i. Construction or replacement of brick, stone, concrete, or gravel walkways, parking areas, patios, driveways or other paved areas that are not readily visible from public right-of-way and/or are compatible in materials, location and design with the visual character of the site and that do not significantly change their appearance or the material used	✓	
b. Fences & Walls		
i. In-kind replacement of existing fences or minor alterations that do not significantly change the original appearance of the fence or involve a change in the material used	✓	
ii. Removal of non-compatible fence types (such as chain link, vinyl)	✓	
iii. Construction or repair of brick or stone walls where the new walls are compatible in material, height, location, and design with the visual character of the site or district or where the repair work used in-kind materials and does not significantly change the appearance of the original	✓	
c. Landscaping		
i. Removal of trees with a receipt of a letter from a certified arborist that the tree is dead, dying, or in a hazardous condition	✓	
ii. Removal of invasive plant species as defined by the Maryland Department of Natural Resources	✓	
d. Lighting		
i. Installation or replacement of exterior light fixtures that are compatible in material, height, location, and design with the character of the site or district	✓	
e. Utility and Mechanical Equipment		
i. Installation, relocation, or removal of electric and gas meters, cable boxes, satellite dishes, 5G communication units, HVAC condensers, service meters, sprinkler systems, valves, pipes, and	✓	

wiring not on principal façade or highly visible from the public right-of-way		
ii. Installation of security devices such as cameras, touch key plates, and control panels	✓	
f. Major site work improvements		✓
III. Previously Approved COAs		
a. Minor changes to Commission approved applications such as addressing code compliance or making minor modifications to building elevations or non-contributing building or site features that are in compliance with design guidelines	✓	
b. Substantial amendments		✓
IV. Other		
a. Any minor project for which the Maryland Historical Trust has approved the scope of work through the state and/or federal tax credit process or their easement review	✓	
b. Work items not listed here for which a clear reference can be made for conformance with the review criteria	✓	
c. Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the review criteria, or not in conformance with the criteria		✓
V. Emergency Installations/Repairs		
a. Installation of temporary features to protect a historic resource that do not permanently alter the resource	✓	

Any scope of work not listed on this Exhibit 1 will be reviewed by the Historic Preservation Commission.

Note that an item's invisibility from a public right-of-way does not exclude it from a review by either staff or the Commission.