

Part III Historic Overlay Zone

Section 1. Purpose

It is the purpose of this subsection to establish regulations and procedures necessary to preserve the historic structures and character of Elkton by creating a Historic District. This historic district shall be considered as an “overlay zone” and shall be considered in conjunction with the use provisions of the zoning district in which a building is located. All standards and regulations are designed to achieve the objectives more specifically described below.

1. 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 this State and in the Town of Elkton. The Mayor and Town Commissioners of Elkton believe that the public interest and convenience require the preservation and protection of certain places, sites, structures, districts and areas of historic interest, exterior architectural features, and examples of the types of architecture, gardens and grounds found in older areas of Elkton.
2. The purpose of this ordinance shall be (1) to enhance the quality of life and to safeguard the historical and cultural heritage of Elkton by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, historical, archeological, or architectural history; (2) to strengthen the local economy; (3) to stabilize and improve property values of such sites, structures, or districts; (4) to foster civic beauty; and (5) to promote the preservation and appreciation of such sites, structures and districts for the education and welfare of the residents of Elkton.
3. The Mayor and Town Commissioners of Elkton derive authority for this ordinance by virtue of the terms of the State of Maryland Enabling Act for Municipal Historic District Legislation (1974 Cum. Supl. – Art. 66B – Sec. 8.104-8.105).

Section 2. Historic District Commission

1. Historic District Commission. The Town hereby creates a commission to be called the Elkton Historic District Commission.
2. Membership. The Historic District Commission shall consist of five members appointed by the Mayor and Town Commissioners. A majority of the members of the Commission shall be residents of the Town of Elkton. Each member 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. Nonresident appointees to the Commission must possess professional or academic qualifications as further defined in paragraph 3 of this subsection. 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.
3. Commission Membership Qualification Criteria. The requirement for Commission membership under the category of demonstrated special interest may be satisfied either by formal training in one or more of the fields listed in paragraph 2 of this subsection or active membership in a preservation-related organization. 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.

4. Terms. Commission members shall be appointed for terms of three (3) years, except that the terms of the initial appointments shall be staggered so that the initial appointments do not expire at the same time. Members of the Commission are eligible for reappointment.
5. Commission Officers. On or before January 31st of each year, 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.
6. 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.
7. Removal for Cause. A member may be removed from the Commission for cause, upon written charges, and after a public hearing, by the Mayor with the consent and approval of the Town Commissioners.
8. Compensation. Commission members shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties, provided said expenses are permitted by the budget and approved in advance by the Mayor and Commissioners.
9. Meetings. The Commission shall hold such regular meetings and hearings as necessary to discharge its duties.
10. Staff. Consistent with the Town's policies and procedures, employees may be assigned as staff to the Commission, and such services and facilities shall be made available as the Town deems necessary or appropriate for the proper performance of its duties.

Section 3. Powers and Duties

The Historic District Commission shall have the following powers and duties:

1. To direct studies, reports and surveys to identify historical, archeological, or architecturally significant sites, structures, and districts that exemplify the cultural, social, economic, political, or architectural history of the Town, state, or nation.
2. Consistent with the Town's charter, ordinances, resolutions, local public law, policies and procedures regarding the acceptance and use of gifts by public officials, to accept and use gifts by public officials, to accept and use gifts for the exercise of its functions.

3. To prescribe appropriate rules and regulations for transaction of its business.
4. To recommend for adoption by the Mayor and Commissioners, rehabilitation and new construction design guidelines and criteria for construction, alteration, reconstruction, moving, and demolition of designated landmarks, sites, structures, and districts which are consistent with the Secretary of the Interior's Standards for the 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, because they are minimal in nature, do not affect historic, archeological, or architectural significance, do not require review by the Commission.
5. Consistent with the Town's charter, ordinances, resolutions, local public law, policies and procedures governing the acquisition of easements, to accept or otherwise acquire 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. The easements acquired by the Commission may grant to the commission, the residents of the historic district, and the general public the right to ensure that any site, structure, or surrounding property on which the easement is applied is protected, in perpetuity, from changes that would affect the historic, archeological, architectural significance of the site, structure, or surrounding property, and
6. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or the implementation of the purpose of this article, including employing consultants, and making recommendations on the Comprehensive Plan, proposed ordinances and Planning Commission action on subdivisions and site plans.

Section 4. Designation of Historic Overlay Zone.

1. Designating Body. Historic Overlay Zones shall be designated by the Mayor and Commissioners in accordance with the procedures established by this ordinance.
2. Petition for Designation or Removal of Designation. Petition for designation of a Historic Overlay Zone or removal of said designation may be initiated by the owner of the site or by the owner's agent, by the Historic District Commission, or by any interested person, group, or organization.
3. Criteria for Designation. The following criteria are to be considered when making the determination to designate a resource eligible for classification as a Historic Overlay Zone.
 - a. Historic and Cultural Significance. The historic resource:
 - (1) has significant character, interest or value as part of the development, heritage, or cultural characteristics of the Town, County, State, or Nation;
 - (2) is the site of a historic event;
 - (3) is a site that has yielded, or may be likely to yield, information important in prehistory or history;

- (4) is identified with a person or a group of persons who influenced society; or,
 - (5) exemplifies the cultural, economic, social, political, or historic heritage of the Town.
- b. Architectural and Design Significance. The historic resource:
- (1) embodies the distinctive characteristics of a type, period, style, or method of construction;
 - (2) represents the work of a master craftsman, architect, or builder;
 - (3) possesses high artistic values;
 - (4) represents a significant and distinguishable entity whose components may lack individual distinction; or,
 - (5) represents an established and familiar visual feature of the Town, due to its singular physical characteristics or landscape.
4. Should a Historic Overlay Zone no longer meet the above criteria and the specific criteria for which it was originally designated, the Historic Overlay Zone designation may be removed by legislative action of the Mayor and Commissioners after receipt of a recommendation from the Historic District Commission.
5. Should a Historic Overlay Zone have received Town authorized or administered preservation grants, loans or special property tax incentives, the Mayor and Commissioners may require that those funds received through grants, loans or tax incentives be reimbursed in full to the Town prior to the site being removed from the Historic Overlay Zone designation.

Section 5. Procedures for Petition for Designation or Removal

1. Petitions for Historic Overlay Zone designation or removal of a Historic Overlay Zone designation shall be filed with the Planning Office. The petitions concerning Historic Overlay Zone designation shall include a completed Historic Overlay Zone Application form and additional information as required by the Commission to enable the Commission to make a well informed decision. The application and all attachments shall be forwarded to the Historic District Commission fourteen (14) days prior to the regularly scheduled meeting. The Commission shall have thirty (30) days to review the application after it has been discussed at a public meeting held by the Commission before forwarding the Historic Overlay Zone Application, attachments (if applicable), and Commission recommendations to the Mayor and Commissioners.
2. If the Historic District Commission feels that more than thirty (30) days are needed in order to make an educated and informed decision, the Commission shall inform the applicant of their request for an extension prior to the terminus of the thirty (30) day period. The applicant shall then send a written response to the Planning official within ten (10) days and the Official shall forward said response to the Commission within five (5) days of receipt of said response. If the applicant fails to send a written response within the designated time period, the petition is null and void and would need to be resubmitted if said applicant wishes to pursue the matter. If the Commission receives a negative reply for an extension, the Commission shall have five (5) days

to forward their recommendations to the Mayor and Commissioners. If the Commission fails to act within the designated time period, the application shall be forwarded to the Mayor and Commissioners who must approve the petition.

3. For petitions initiated by other than the owner, the applicant must abide by the following criteria:
 - a. Notify the owner of the property at least fifteen (15) days prior to the scheduled meeting to discuss the application;
 - b. Clearly identify the significance of the site with regard to the Town;
 - c. State the need for the site to be designated a Historic Overlay Zone;
 - d. Demonstrate how the public interest will be served by having the site designated a Historic Overlay Zone;
 - e. Demonstrate that the designation will not create an undue burden or hardship for the property owner;
 - f. Consider the property owners' comments and desires; and,
 - g. A unanimous vote of the Mayor and Commissioners will be required to designate the site as a Town Historic Overlay Zone.

Section 6. Application for Historic District Work Permit and Commission Review

1. Application for Historic District Work Permit. Before the construction, alteration, reconstruction, moving, or demolition is undertaken of a designated landmark, site, or structure, or site or structure within 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, any portion of which is visible or intended to be visible from a public way, the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a Historic District Work Permit with the Commission for permission to construction, 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 Historic District Work Permit shall be granted until the Commission has acted thereon as hereinafter provided. A Historic District Work Permit shall lapse upon the expiration of the corresponding Building Permit. In the event a Building Permit is not required, the Historic District Work Permit shall lapse six (6) months from its issuance if substantial work is not underway. For good cause shown, this period may be extended by the Commission.

Specific items requiring Historic District Work Permits include, but are not limited to the following: repair or replacement of roofs, gutters, siding, external doors and windows, external trim, external lights, and other external appurtenant fixtures, with different materials and/or different design; removal of a building, structure, or object, or a visible portion thereof, including out-buildings; new construction or any enlargement, modification, or alteration of the exterior of an existing building, structure or object which require a building permit; removal, replacement or

enclosure of porches; basic alteration of materials, including installation of siding, shingles or masonry facing; removal of significant healthy trees; installation or removal of shutters; new paving or modification of paving materials in front of building line; removal, modification or alteration of exterior architectural features; first time painting, removal of paint or substantially changing the color of paint; exterior sandblasting; performing any grading, excavating, construction, or substantially modifying, changing or altering the environmental setting; erecting or causing to be erected and sign or advertisement (with the exception of those signs which are erected temporarily for such purposes as advertising the sale of the property site or promoting a political viewpoint) on exterior structures or in the environmental setting; any other act which does not constitute ordinary maintenance but which modifies, alters, or otherwise affects the exterior features of a Historic Resource within the Historic Overlay Zone.

2. Application Review.

- a. 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.
- b. The Commission shall consider only exterior features of a landmark or structure and shall not consider any interior arrangements.
- c. The Commission shall not disapprove an application except with respect to the several factors specified in paragraph (1) above.
- d. 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.
 - (1) 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 the Town of Elkton 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 Zoning Administrator.
 - (2) If an application is submitted for construction, reconstruction, or alteration, or for the moving or demolition of a site or structure at 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, for Commission may approve the proposed construction, reconstruction, alteration, moving, or demolition despite the provisions of Section 6.2.d (1) above if:

- (a) The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the Town;
 - (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 interest of a majority of persons in the Town.
3. Commission Decision. The Commission shall file with the Zoning Administrator a Historic District Work Permit certifying its approval, modification, or rejection of each application and plans submitted to it for review. Work shall not be commenced on any project until such a permit has been filed, and the Zoning Administrator shall not issue a building or any other permit for such change or construction unless it has received the Historic District Work Permit.
4. Routine Maintenance. Nothing in this Article shall be taken or construed to prevent maintenance that does not alter the exterior fabric or features of a designated landmark, site, or structure, customary farming operations, or landscaping which will have no material effect on the historic, archeological, or architectural significance of a designated landmark, site, structure, or district.

Section 7. Demolition by Neglect

1. In the event of demolition by neglect, the Commission may request the Zoning Administrator to notify, in writing, the property owner of record, any person having a right, title, or interest therein, 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.
2. Prior to the issuance of a written notice, the Commission may request the Zoning Administrator 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.
3. 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.

4. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request that the Zoning Administrator take corrective action to comply with the Final Notice within thirty (30) days of receipt of the Final Notice.
5. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the Final Notice within the time required, the Commission may request that the Zoning Administrator institute any of the remedies and penalties provided by law for such violations.

Section 8. Order to Restore

In the event that any type of intervention on a property or structure in the Historic District has been conducted without a Historic District Work Permit or in violation of a Historic District Work Permit, or, in cases of Demolition by Neglect, the Town may issue the owner an Order to Restore. This order will require the property owner to restore the property to the condition that existed prior to the intervention using material-in-kind and design-in-kind, subject to all applicable building and life safety codes. The Historic District Commission shall review the intended mitigation of any such intervention for appropriateness, and establish a reasonable time limit for the mitigation.

Section 9. Role of 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 Town. 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.

Section 10. Appeals

In the event than any party is aggrieved by a decision of the Commission, the party has the right of appeal to the Circuit Court for Cecil County. Appeals must be filed within thirty (30) days from the date of Commission decision.

Section 11. Violations

Any willful violation of the provisions of this article shall be a violation of this Ordinance and subject to time enforcement provisions of Article VII. Each and every day that the violation continues shall be deemed a separate offense.

Section 12. Severability

If any provision of this article or 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.

Section 13. Definitions

For the purposes of the Historic District Overlay Zone Article the following words and phrases, shall have the meanings respectively ascribed to them:

“*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.

“*Appurtenances and environmental settings*” shall mean all that space or grounds and structures thereon which surrounds a designated Site of 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.

“*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 the designated Historic Overlay Zone, not including any appurtenances and environmental settings, 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; 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 to foundations, exterior walls, roofs, chimneys, doors, or windows.

“*Historic District Work Permit*” shall mean a permit issued by the Historic District Commission indicating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site or structure or of a sign or structure within the designated Historic District Overlay Zone.

“*Historic District Overlay Zone*” shall mean a significant concentration, linkage, or continuity of sites, structures, or objects united historically, architecturally, archeologically, culturally, or aesthetically by plan or physical development. A Historic District Overlay Zone shall include all property within its boundaries as defined and designated by the Mayor and Commissioners.

“*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.

“*Landmark*” shall mean any designated site or structure outside the boundaries of the historic district that is of exceptional historic, archeological, or architectural significance.

“*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.

“*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.

“*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.

“*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”.