

Maryland Certified Local Government Program Procedures Manual

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INTRODUCTION

Since its establishment by Congress in 1966, the United States' national historic preservation program has operated as a partnership between the Federal government and the States. The National Historic Preservation Act (**NHPA**) (54 USC 300100 et seq.) contains the legal basis for the Certified Local Government (**CLG**) Program, which is jointly administered by the National Park Service and State Historic Preservation Offices. The Program, which recognizes counties and municipalities that have made a special commitment to preservation, has the following purposes, as set forth in the NHPA:

- (1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the NHPA and the Secretary of the Interior's [*Standards and Guidelines for Archeology and Historic Preservation*](#);
- (2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the State Historic Preservation Officer (**SHPO**); and
- (3) to provide financial and technical assistance to further these purposes.

The NHPA directs the SHPO and the Secretary of the Interior to certify local governments to participate in the CLG Program. As the State Historic Preservation Office in Maryland, the Maryland Historical Trust (**MHT**) is the state agency dedicated to preserving and interpreting the legacy of Maryland's past. Per the NHPA, the SHPO is appointed by the Governor. In Maryland, the Director of MHT is selected by the Board of Trustees and confirmed by the Governor. Since 1985, the Director of MHT has served as the SHPO.

To become certified, a local government must meet several requirements. Most importantly, the local government must enact a historic preservation ordinance and appoint a qualified historic preservation commission. The CLG's responsibilities within the partnership involve, at a minimum: enforcing appropriate State or local legislation for the designation and protection of historic properties, in most cases via a local ordinance; maintaining a system for the survey and inventory of local historic resources; and facilitating public participation in local preservation, including participation in the National Register listing process.

Each state has Procedures for Certification that may establish additional requirements for becoming a CLG in that State. This manual outlines how the CLG Program is implemented in Maryland.

Regulations for the CLG Program, entitled "Procedures for State, Tribal, and Local Government Historic Preservation Programs," were published in the Federal Register effective on May 13, 1984 and were amended in 1996. Specific requirements regarding the program are outlined in the National Park Service *Historic Preservation Fund Grants Manual*, most recently updated in 2007. This manual and all other appendices referenced herein are posted on the MHT website.

I. REQUIREMENTS FOR LOCAL GOVERNMENT CERTIFICATION

To become a CLG in Maryland, local governments must (A) appoint a qualified historic preservation commission; (B) enact legislation for the designation and protection of historic properties; (C) maintain a system for the survey and inventory of historic properties; and (D) provide for adequate public participation in local historic preservation programs.

A. Qualified Historic Preservation Commission

Counties and municipalities must establish an adequate and qualified historic preservation commission by State and local legislation. Members of the commission must be appointed by the jurisdiction's chief elected official. A historic preservation commission must meet the criteria listed below.

1. The local government must establish a historic preservation review commission with at least five (5) qualified members.
2. All members of the commission shall possess a demonstrated special interest, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, prehistoric and historic archeology, cultural anthropology, curation, conservation, folklore, landscape architecture, historic preservation, urban design, or related disciplines. The CLG must provide information sufficient to allow MHT to verify those qualifications at the time of certification and via the Annual Report process. Pursuant to Federal requirements (36 CFR 61.6(e)(2)) all Commission members must have a demonstrated, interest, competence, or knowledge in historic preservation.
3. Under 54 USC 300100 et seq., each CLG shall have a historic preservation commission with at least two (2) members who possess professional or academic training in history, architectural history, architecture, historic architecture, or archeology in accordance with the Secretary of the Interior's [*Historic Preservation Professional Qualification Standards*](#) (referred to in 36 CFR Part 61) to the extent that such professionals are available in the community. Each certified jurisdiction will make a reasonable effort to locate and appoint such professionals, and will provide written information to the State describing how this effort was carried out. An individual may be a member of more than one CLG Commission provided that she/he is familiar with the resources of both CLGs.
4. If the membership of the proposed commission does not meet the professional qualifications stipulated in (2) and (3) above, the commission shall provide written documentation of efforts to seek participation in CLG activities by qualified professionals. This requirement may be satisfied by providing copies of advertisements; describing outreach to local colleges, universities, and other pertinent institutions and organizations; and supplying copies of responses to such inquiries. If the proposed commission does not meet the professional qualifications stipulated above, and if the CLG has made other arrangements for the acquisition and use of professional expertise (such as staff or contractors) by the commission, the CLG must describe these arrangements in the certification and Annual Report processes.
5. Commission member terms shall be staggered and of three (3) years' duration (except as provided in the initiation of a commission).
6. The appointing authority shall act in a timely fashion to fill a vacancy.

7. Each commission member shall participate in at least one (1) MHT-approved educational training per year, pertaining to the work and functions of the commission or to historic preservation generally. Automatically approved educational sessions are listed in the CLG grant guidelines each year and typically include trainings offered by the Maryland Association of Historic District Commissions, Preservation Maryland, the National Trust for Historic Preservation and the National Alliance of Preservation Commissions. Historic preservation courses offered at local community colleges or universities are also acceptable. Other programs may be acceptable; however, CLGs are encouraged to consult with MHT prior to attendance.

B. Legislation for the Designation and Protection of Historic Properties

In accordance with Federal and State requirements, to participate in Maryland's CLG Program, local governments must provide a legally enforceable method, such as a historic preservation ordinance, for the designation and protection of historic properties that is consistent with the Federal statutory definitions in 54 USC 302501 of the NHPA, and with the Land Use Article, Title 8. Historic Preservation (Annotated Code of Maryland, as amended) (the "**Article**"). The CLG's legislation or ordinance must include the provisions described below.

1. A clear statement of the purpose of the historic preservation ordinance or legislation must closely coincide with the language of the purpose clause of the Section 8-102 of the Article (see *Appendix I*). Even those local governments who do not derive their land use powers from the Article must reflect this language in the purpose clause.
2. The commission must adopt rules and regulations for the transaction of commission business.
3. The local jurisdiction must adopt criteria and guidelines consistent with the Secretary of the Interior's [Standards and Guidelines for Archeology and Historic Preservation](#).
4. The ordinance must include the authority for local designation. The designation of sites, structures and historic districts must meet established state or local criteria consistent with, as appropriate, the Secretary of the Interior's [Standards for Identification](#), for [Evaluation](#) and for [Registration](#). Criteria for designation of such sites, structures and districts must be clearly set forth.
5. The commission must have the authority to review and render a decision upon alterations to, and relocation or demolition of, all structures or sites within the boundaries of designated sites, structures or districts.
6. The commission must have the authority to review and render a decision on all proposed new construction within the boundaries of designated sites, structures or districts.
7. Design review must be conducted according to the Secretary of the Interior's [Standards for the Treatment of Historic Properties](#). The criteria upon which proposals for alteration, relocation, new construction and demolition will be reviewed must be clearly set forth and should coincide, at minimum, with the language of the criteria clause of Section 8-303 of the Article.

8. The commission must have the authority to delay demolition for a period of no less than ninety 90 days in cases of structures that the commission deems to be of unusual importance to the jurisdiction, state, or nation.
9. The ordinance must contain specific time limits, parallel to Section 8-307 of the Article, within which the commission and applicant must act.
10. Decisions of the commission must be binding on all applications for new construction, alterations or demolitions within boundaries designated under the ordinance.
11. Provisions for enforcing decisions and a right of appeal must be outlined in the historic area zoning ordinance or in the jurisdiction's general zoning ordinance.

C. System for Survey and Inventory

Local governments must maintain, with certain limited exceptions (see below) a publicly accessible system for the survey and inventory of historic properties. CLGs are encouraged to develop historic contexts for their jurisdictions and identify priorities for research and survey as part of a comprehensive and/or preservation planning process. To identify and document historic and cultural resources for evaluation and designation activities, the local government's system must meet the criteria outlined below.

1. The CLG shall conduct surveys of historic and cultural properties within the county or municipal boundaries that follow or adhere to the [Standards and Guidelines for Architectural and Historical Investigations in Maryland](#) (2000) and the [Standards and Guidelines for Archeological Investigations in Maryland](#) (Shaffer and Cole, 1994). Data produced from local surveys must be conveyed to the SHPO for integration into the Maryland Inventory of Historic Properties and/or the Maryland Archeological Site Survey.
2. The CLG shall maintain a detailed inventory of the designated sites, structures, and districts under the commission's jurisdiction. This inventory also includes, but is not limited to:
 - a. properties listed in the National Register of Historic Places (see Section V of this manual for more information about National Register requirements for CLGs);
 - b. properties formally determined eligible for listing in the National Register;
 - c. properties included in the Maryland Inventory of Historic Properties; and
 - d. properties designated locally.
3. Many CLGs elect to use SHPO records, available via the State's cultural resource information system ([Medusa](#)) on the MHT website, as the local inventory; this helps ensure data consistency. However, the CLG inventory may also include information about historic and prehistoric properties known to the community, but which lack sufficient information for inclusion into the SHPO records. The CLG shall record these properties using the data sections from the Maryland Inventory of Historic Properties or Maryland Archeological Site Survey forms, so that the information may be easily integrated when sufficient supplementary data is added.
4. All inventory material shall:
 - a. be completed in accordance with the [Standards and Guidelines for Architectural and Historical Investigations in Maryland](#) (2000) and the [Standards and Guidelines for Archeological Investigations in Maryland](#) (Shaffer and Cole, 1994);

- b. be added to the Maryland Inventory of Historic Properties and/or the Maryland Archeological Site Survey, as appropriate;
 - c. include printed digital photographs that meet the [Standards for Submission of Digital Images](#) (2019) for all grant-funded and National Register nomination projects, or embedded black and white or color images submitted on continuation sheets for non-grant funded projects (see the *Standards and Guidelines*, Chapter IV for more details);
 - d. be accessible to the public (except data that is protected by state law, such as the location of archeological sites or sensitive historic resources that are vulnerable to damage and loss); and
 - e. be updated periodically, both locally and in the MHT record.
5. CLGs must maintain records of local property designation and submit information about new designations via the CLG Annual Report each year.

D. Public Participation

Local governments must provide for adequate public participation in local historic preservation programs, including the process of recommending properties for nomination to the National Register, by meeting the criteria outlined below.

1. All meetings of historic preservation commissions shall be publicly advertised, be open to the public, and have a previously published agenda. To accomplish the Commission's work in a timely fashion, the Commission meetings shall occur at regular intervals, at least four (4) times a year. Public notice shall be provided prior to any special meetings.
2. Reasonably thorough record of all decisions and actions of the commission, including the reasons for making these decisions, shall be kept on file and be available for public inspection.
3. All actions by a commission shall be taken in a public forum, and applicants shall be given written notification of the commission's decisions.
4. The commission shall adopt rules of procedure that are available for public inspection.
5. The local government shall make its criteria for design review, including design guidelines, available for public inspection.
6. The commission shall review all proposed National Register nominations for properties within the jurisdiction of the local government. (More information about National Register requirements for CLGs is available in Section V of this manual.) Public notice of the date, time and place of the commission's review of a National Register nomination, including an agenda of the items to be considered, must be publicly advertised or posted in a public place not less than 10 days prior to the meeting.

E. Conflict Of Interest

CLG commission members, staff and agents must abide by the conflict of interest provisions stated in the *Historic Preservation Fund Grants Manual* (in particular, see element 9 of the definition of "person" In Chapter 3, Section C), as well as the Maryland Public Ethics Law, as applicable.

A conflict of interest exists when a person may benefit (either through financial or personal gain) from his or her position with the CLG, or when a person may be unable to make impartial decisions or render impartial advice due to outside relationships or other activities.

An apparent conflict of interest exists whenever a person may appear to be in a position to benefit (either through financial or personal gain) from his or her position with the CLG, or when a person may appear to be unable to make impartial decisions or render impartial advice due to outside relationships or other activities.

When a real or apparent conflict of interest arises in the context of voting, the person must disclose the possible conflict and physically absent and recuse himself or herself from the decision-making process (including presentations and discussion) and neither vote directly, in absentia, nor by proxy in that matter. The recusal and the reasons for the recusal must be recorded in the meeting minutes. Those in a position to make a decision must be fully informed of the conflict of interest.

For further guidance or copies of the conflict of interest provisions of the *Historic Preservation Fund Grants Manual*, contact MHT. For advice on specific situations under the Maryland Public Ethics Law, contact the [Maryland State Ethics Commission](#) or your local government ethics advisor, such as the local government ethics commission, board of ethics, local government attorney, or chief administrative officer.

F. Satisfactory Performance of Duties

Local governments must have the legal authority to fulfill the minimum requirements outlined above. In addition, MHT may, at its discretion, and by mutual written agreement with the local governing body, delegate further responsibilities to the historic preservation/district commission. To continue to participate in the CLG program and remain eligible for grant funding and other benefits, CLGs must satisfactorily perform both the responsibilities listed above, and those specifically delegated to it by MHT.

II. PROCESS FOR LOCAL GOVERNMENT CERTIFICATION

To become a CLG, the local government must submit an application to MHT. The CLG application must be approved by MHT and the National Park Service.

A. Application

The chief elected official (CEO) of the local jurisdiction shall request certification from MHT by submitting the following documentation:

1. Written confirmation by the CEO that the local government fulfills all the standards for certification outlined in Section I;
2. A completed copy of the Maryland CLG Application Materials (see *Appendix II*), which are available for download on the [MHT web site](#); and
3. All required attachments to the CLG Application, which include, but are not limited to:
 - a. A copy of the adopted historic preservation ordinance creating the commission;
 - b. Copies of any laws providing for the designation or protection of historic properties within the applicant jurisdiction;
 - c. A description of the make-up of the historic preservation commission, including information sheets for each commission member and resumes;

- d. A copy of the commission's rules of procedure;
- e. A copy of the commission's design review criteria or guidelines;
- f. Copies of the minutes of at least three (3) consecutive commission meetings;
- g. A sample notice to an applicant of a commission decision;
- h. A sample notice of a public meeting; and
- i. A list and accompanying maps of designated sites, structures, or historic districts.

B. Approval Schedule

If the CLG Application Materials are determined by MHT to be satisfactory and complete, MHT will respond in writing to the CEO within 60 days of receipt, whether or not the local government meets the certification criteria. If the local government does not meet the certification requirements, MHT will state why the local government does not meet the certification requirements. If the local government meets the certification requirements, MHT will prepare a written Certification Agreement that lists the responsibilities of the local government when certified (see *Appendix III*). The Certification Agreement will be signed by the Director of MHT (as the State Historic Preservation Officer) and sent to the local government for signature by the CEO.

Incomplete or otherwise unsatisfactory CLG Application Materials will be returned to the local government within fifteen (15) working days of its receipt by MHT, with a written explanation of the deficiencies requiring correction prior to resubmission.

The Certification Agreement (*Appendix III*), signed by the CEO and the Director of MHT, is then sent to the National Park Service for concurrence, along with the completed CLG Application Form (sans attachments; see *Appendix II*). The National Park Service has 15 working days following receipt to request additional information. To formally concur, the National Park Service will notify MHT in writing and send a copy of that letter to the CLG. The effective date of certification is the date of National Park Service concurrence.

III. MONITORING, EVALUATION AND DECERTIFICATION OF CLGS

To continue to participate in the CLG program and remain eligible for grant funding and other benefits, CLGs must continue to meet certification requirements. MHT monitors CLG performance via Annual Reports and formal evaluations, which take place a minimum of every four years.

A. Annual Reporting Requirement

Each CLG shall submit an Annual Report of its activities by completing a questionnaire that MHT will provide to CLG contacts by email each year. CLGs will have a minimum of 60 days from the email date to complete the questionnaire and submit any supplemental information by email. Annual Report questions reflect the certification agreement requirements and provide an opportunity for CLGs to share feedback with MHT regarding opportunities, challenges and MHT's services. In addition to satisfying federal reporting needs, the Annual Report provides MHT with data useful in the development of training and public outreach programs that address those stresses and challenges particular to CLGs. Repeated failure to submit an Annual Report constitutes a breach of the MHT/CLG Certification Agreement and is grounds for recommending decertification of the CLG to NPS.

B. Evaluation of CLGs

At a minimum of every four years, MHT will contact each CLG to arrange for an evaluation. Whenever possible, this evaluation will be held in person at the CLG office. The evaluation, based on information

obtained from the site visit and from CLG Annual Reports, will measure performance by standards outlined in the CLG Evaluation Form (see *Appendix IV*). The purpose of this periodic evaluation is to ensure compliance with the National Park Service requirements and the CLG Certification Agreement, as well as to provide data for MHT's Historic Preservation Fund report, which is mandated by the National Park Service. The evaluation results are provided by MHT to the CLG in a written assessment and copies of the CLG Evaluation Forms are maintained by MHT for National Park Service review. Evaluation results may be appealed via a letter from the CLG to the SHPO.

C. Decertification of CLGs

Should a CLG no longer comply with the terms of its Certification Agreement or meet the requirements which made it eligible for certification, the CLG may be decertified in accordance with the steps outlined below. Once a CLG has been decertified, it will no longer be eligible to receive CLG subgrants or other benefits of the CLG Program. Decertification does not prevent a former CLG from applying to be part of the program in the future.

1. **Involuntary Decertification.** If the MHT evaluation indicates that the performance of a CLG "needs improvement" or is "unsatisfactory" (see *Appendix IV*), MHT will recommend practices or methods to improve the CLG's performance as part of its written assessment. If the CLG wishes to retain its CLG status, the CLG shall implement the recommendations according to the timeline established by MHT in its written assessment. If MHT determines that sufficient improvement has not occurred, the Director of MHT (as the State Historic Preservation Officer) may recommend decertification of the CLG to the National Park Service. MHT shall notify the CLG in writing that the decertification process has begun and will cite the specific reasons for the decertification. The CLG is decertified if the National Park Service concurs in writing with MHT's recommendation, with a copy to the CLG.
2. **Voluntary Decertification.** If a CLG wishes to terminate its participation in the CLG Program, it must provide a written request for decertification to MHT. MHT will forward the written request to the National Park Service for decertification concurrence and determination of the official date of the decertification. The CLG is decertified if the National Park Service concurs in writing with the CLG's request, with a copy to MHT and the CLG. If the National Park Service does not object within thirty (30) business days of receipt of the CLG's request, MHT will inform the CLG in writing of the decertification.
3. **Recertification.** If the decertified local government wishes to become recertified, it must reapply for certification through the regular CLG certification process (see Section II of this manual).

IV. CLG SUBGRANTS

MHT must award a minimum of 10% of its annual allocation from the federal Historic Preservation Fund to CLG projects and educational opportunities. (The percentage goes up if Congress appropriates more than \$65 million in Fund allocation to States in a given year.) All CLGs in good standing are eligible to compete for these subgrants.

Each year, MHT will notify CLGs of the availability of subgrant funds and distribute detailed grant guidelines for that federal fiscal year, which will also be posted on the MHT web site. The guidelines will include: the total amount of anticipated funding available, state priorities for funding, selection criteria,

application requirements, and the application deadline. While MHT may make changes to the subgrant guidelines each year, the subgrant program will comply with the following requirements. Pursuant to Section 102 of the NHPA (54 USC 302902) and 36 CFR 61.6, MHT will ensure that no CLG receives a disproportionate share of the subgrant funds

If project funding is awarded, the CLG must adhere to all required administrative procedures and policies for subgrants established by MHT, as outlined in the subgrant agreement, and by the National Park Service, as set forth in the *Historic Preservation Fund Grants Manual*, and the Office of Management and Budget requirements specified in [2 CFR 200](#). At a minimum, the CLG will be responsible for a final narrative and financial report on the funded project, as well as project deliverables.

The intent of the Historic Preservation Fund program is to use grant assistance to augment, rather than replace, existing local commitment to historic preservation activities. CLG shall not use any Historic Preservation Fund assistance to supplant local funding of historic preservation activities.

CLGs receiving funding through the Program shall be considered subgrantees of the state. Because the funding is derived from a federal source, CLG grants typically cannot be used to match other federal grants unless otherwise specified.

A. Eligibility Requirements

To remain eligible for subgrants, CLGs must comply satisfactorily with the conditions and requirements of their Certification Agreements with MHT.

B. Funding for Education and Training (Non-Competitive)

CLGs may apply for funds to attend educational and training programs that meet the criteria for CLG Program compliance (see Section I.B(6) of this manual). Educational and training funding is non-competitive, but MHT typically sets a cap on awards each year, as described in the grant guidelines. Actual awards may be less than requested based upon availability of funds and past performance of CLGs in utilizing and administering educational funding.

C. Eligible Projects (Competitive)

CLGs may apply for competitive funding for a wide variety of heritage preservation activities. All CLG-funded activities must meet applicable state and federal standards, including the Secretary of the Interior's [Standards for Archeology and Historic Preservation](#). Depending on the scope of work, principal investigators undertaking CLG-funded projects may be required to meet the Secretary of the Interior's [Historic Preservation Professional Qualification Standards](#).

D. Selection Criteria

Competitive grant decisions will be based on project selection criteria, which are listed in the grant guidelines each year. These criteria are assigned point values weighted according to MHT's priorities for that year. Criteria typically evaluate the significance and urgency of the project, potential impact and administrative capability, and how the project will advance the local preservation goals of the community. MHT will make available to the public, upon request, the rationale for applicants selected for funding and the amounts awarded.

E. Selection Process

The grant award process consists of three phases: solicitation of applications, project ranking and selection, and approvals. A committee of MHT staff members evaluates each eligible project application on the merits of its method, goals, and product, with careful attention to the budget and demonstrated experience of the applicant in managing grant funds. The committee members then rank the project applications according to the project Selection Criteria.

Proposed funding allocations for the subgrant program are forwarded to the Director of MHT (as the State Historic Preservation Officer) for review and approval. Once the Director has approved the final funding allocations, MHT notifies applicants and begins the contract preparation process.

F. CLG Grant Funds Used Outside Boundaries of a CLG

A CLG may use grant funds for activities involving historical or archeological resources outside its jurisdiction if:

1. Such activity is not prohibited by State or local ordinances or State CLG procedures;
2. The activity conducted and the proposed costs are allowable under the provisions of the *Historic Preservation Fund Grants Manual*;
3. The activities that will occur outside the jurisdiction of the CLG clearly demonstrate a direct benefit to identifying, evaluating, and protecting the historic and archeological resources of the CLG; and
4. Both the CLG and the local government with jurisdiction agree to pursue the project. (Please note: one of the project partners must be identified as the administrator. If the CLG is not the administrator, see the section on “Third Party Administration” below.)

G. Pooling CLG Subgrants

Subgrants can be pooled by CLGs for specific purposes. For example, several CLGs could pool a subgrant to share the services of a preservation professional who could travel among the CLGs as a “circuit rider.” Such an arrangement is permissible when the following conditions are met:

1. All local governments involved in the pooling are CLGs;
2. One CLG is designated as the administrator of the subgrant and identifies itself as such in its request for CLG funding; and
3. The CLG designated as the administrator of the subgrant has consented to serve as the administrator by submitting a letter to MHT in conjunction with its application for CLG funds.

H. Third-Party Administration

CLG subgrants may be administered by a designated third-party if the CLG indicates in its funding application to MHT that it wants any subgrant awarded to it to be administered by a specific organization.

Designation of a third-party to administer a subgrant is not a procurement action. The third-party administrator may be another unit of local government, a commercial entity, a non-profit entity, or an educational institution, as long as it has appropriate administrative capability. This provision is intended to facilitate such projects as workshops for multiple CLGs, or hiring a consultant to perform services for several CLGs.

The subgrant agreement will be executed between MHT and the CLG’s designated administrative agent. The subgrant agreement will make clear that the administrative agent is acting on behalf of the CLG(s), thus meeting the Federal requirement that MHT awards these subgrants to CLGs. MHT will disburse the subgrant funds to the third-party administrator upon the subgrantee’s satisfactory completion of

the scope of work and compliance with all conditions of the subgrant agreement. Any CLG receiving grant assistance under this provision must continue to satisfactorily comply with the conditions and requirements of its certification agreement with MHT.

V. CLG INVOLVEMENT IN THE NATIONAL REGISTER NOMINATION PROCESS

In the CLG Program, local governments play an important part in the process of nominating properties to the National Register of Historic Places through a special working relationship with MHT and the National Park Service. Under this program, both the local historic preservation commission and the jurisdiction's chief elected official (CEO) are asked to provide recommendations concerning eligibility for National Register listing.

A. The Nomination Process

The nomination process generally begins with submission of a nomination application to MHT. (Any member of the public, including local governments, can submit nominations.) The nomination is reviewed by MHT staff for National Register eligibility, appropriate nomination format, and sufficiency of documentation. MHT notifies the applicant of the projected date for consideration of the nomination by the Governor's Consulting Committee on the National Register.

When MHT determines that the nomination materials meet National Register documentation standards, a copy of the nomination is forwarded to the CLG if the property falls within a CLG's jurisdiction.

B. Local Review Procedures

Local review is coordinated by the historic preservation commission, which shall make a recommendation for or against nomination for listing on the National Register based upon whether the nomination meets the National Register criteria for eligibility. The commission's review is submitted to MHT on the MHT CLG/NR Recommendation Form (see *Appendix V*) with supplemental information, as necessary. The Recommendation Form includes a detailed statement of the reasons for the recommendation, addressing National Register criteria for evaluation, and must be signed by both the commission chairperson and the CEO.

Local review must be completed within sixty (60) days of the commission's receipt of the nomination materials and carried out according to the following procedures:

1. Upon receipt, the nomination is scheduled for review by the commission.
2. The property owner is notified of the commission's intent to consider the nomination. This notification must be made by means of the National Register Owner Notification Letter, using standard wording provided by MHT (see *Attachment V*). The notice must be sent to the owner 14-21 days before the meeting. In case of a nomination with more than fifty (50) property owners, the commission may provide general notice through publication in one or more local newspapers, using the standard text provided by MHT in the National Register General Notice (see *Attachment V*). This notice must be published 14-21 days before the meeting. Any changes to the text of the owner notification letter or the general notice must be approved in writing by MHT prior to use. Additional public notice of the date, time, and place of the commission meeting at which the application will be reviewed, including an

agenda of the items to be considered, must be publicly advertised not less than 10 days prior to the meeting.

3. At least fourteen (14) days prior to the meeting, a copy of the nomination and MHT's staff recommendation are sent to each member of the commission.
4. Consideration of the nomination shall take place at a public hearing, according to procedures specified in the commission's rules of procedure.
5. The commission reviews nominations according to the National Register Criteria for Evaluation, following guidance presented in National Register Bulletin 15, [How to Apply the National Register Criteria for Evaluation](#). In evaluating the integrity of buildings or structures proposed for nomination, the commission will consider the historic architectural fabric of both the exterior and interior of the structure.
6. When the evaluation requires professional expertise in a specific discipline, such as archeology, and that professional discipline is not represented on the commission, the commission will seek appropriate expertise before making a decision by consulting with:
 - Commission staff who meet the Secretary of the Interior's [Historic Preservation Professional Qualifications Standards](#), or
 - A qualified representative of the State Historic Preservation Office, or
 - A hired consultant who meets the Secretary of the Interior's [Historic Preservation Professional Qualifications Standards](#).

In all reviews involving participation by professionals who are not members of the commission, the CLG will include with the Recommendation Form a statement indicating the name of the non-member, whether the non-member is commission staff, MHT staff, or a hired consultant, and the type of participation (correspondence or meeting attendance). If a consultant is hired, a statement of his or her qualifications must be made a part of the record submitted to MHT.

7. Not more than seven (7) days following the commission's meeting at which a National Register nomination is considered, the action on the nomination shall be forwarded to the CEO along with the Recommendation Form bearing the signature of the commission chairperson.
8. Within thirty (30) days of receiving the Recommendation Form, the CEO will indicate his or her recommendation and forward the completed Recommendation Form to MHT to notify MHT of the results of the local review.

Local review affects whether a nomination is processed. If both the commission and the CEO recommend against nomination, the process stops, unless an appeal is filed with MHT. If either the commission or the CEO recommends nomination, the nomination process continues.

The CLG Program does not delegate to local jurisdictions the authority to nominate properties directly to the National Register. Local review does not apply when a Federal agency nominates a property under its ownership or control.

C. Expedited CLG Review

MHT may expedite CLG participation in the nomination process, including shortening the 60-day commenting period, with the concurrence of both the commission and the CEO, as long as owner notification procedures have been met. Expedited CLG review requires the following:

- a. A statement of agreement to expedited procedures signed by the commission chair and the CEO; and
- b. A description of the opportunities for public participation that have been provided.

D. Failure to Complete Review

If the local government does not complete its review within the 60-day time frame prescribed by Federal regulations, MHT will proceed with the nomination process.

E. Separation of National Register Review and Local Designation Processes

Because of the different consequences of National Register listings and local designations, the CLG must handle the two processes (including notification and public participation) separately.

VI. CERTIFICATION OF MARYLAND CLG PROCEDURES

A. Amendments

Maryland's CLG Procedures were approved by NPS on February 12, 1985 and amended in 1990, 2004, and 2019. At any time, Maryland may amend its approved state certifications and subgrant process. In developing amendments to CLG procedures, MHT will consult with local governments, local historic preservation commissions, and other interested parties in Maryland, consider local preservation needs and capabilities, and invite comments on the proposed process. MHT will submit its proposed amended local certification process to the NPS for review and approval, including an analysis and assessment of the results of the consultation process.

The NPS shall review the SHPO's proposed amendment for conformance with the Historic Preservation Fund Grants Manual. Within forty-five (45) business days of receiving the proposal, the NPS will issue an appropriate approval or disapproval notice.

B. Public Comment

Procedures for public comment, set forth in 36 CFR 61.6(b), do not need to be met for changes required as a result of NPS policy directives or regulatory changes, or for amendments involving changes or technical corrections deemed minor after consultation with NPS. In such cases, notification procedures will be considered adequate. All CLGs will be notified in writing of any amendments or changes to these procedures.

APPENDIX I
ANNOTATED CODE OF MARYLAND, LAND USE ARTICLE, TITLE 8. HISTORIC PRESERVATION

[Note: this and the other appendices will be posted separately on the CLG page of MHT's website, along with the revised manual, once approved.]

§ 8-101. Definitions

(a) In general. -- In this title the following words have the meanings indicated.

**** SPECIAL REVISOR'S NOTE**

As enacted by Ch. 426, Acts of 2012, this subsection formerly was Art. 66B, § 8.01(a)(1). However, Ch. 427, Acts of 2012, repealed and reenacted this subsection without amendment.

**** SPECIAL REVISOR'S NOTE**

The only change was in style.

(b) Appurtenance and environmental setting. -- "Appurtenance and environmental setting" includes:

- (1) paved or unpaved walkways and driveways;
- (2) trees;
- (3) landscaping;
- (4) pastures;
- (5) croplands;
- (6) waterways; and
- (7) rocks.

**** REVISOR'S NOTE**

This subsection formerly was Art. 66B, § 8.01(a)(2).

**** REVISOR'S NOTE**

The only change is in style.

(c) Commission. -- "Commission" includes a historic district commission or a historic preservation commission.

**** REVISOR'S NOTE**

This subsection is new language added to define the term "commission", which appears throughout this title, and to eliminate the need to refer to a historic district commission and a historic preservation commission in every instance.

(d) Demolition. -- "Demolition" includes any willful neglect in the maintenance and repair of a structure, other than the appurtenance and environmental setting of the structure, that:

- (1) is not due to a financial inability to maintain and repair the structure; and
- (2) threatens to result in a substantial deterioration of the exterior features of the structure.

** REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 66B, § 8.01(a)(3).

** DEFINED TERM:

"Appurtenance and environmental setting" § 8-101

(e) District. -- "District" means a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or development.

** REVISOR'S NOTE

This subsection formerly was Art. 66B, § 8.01(a)(4).

** REVISOR'S NOTE

The former reference to "physical" development is deleted as implicit in the reference to "development".

** REVISOR'S NOTE

No other changes are made.

** DEFINED TERMS:

"Development" § 1-101

** DEFINED TERMS:

"Plan" § 1-101

** DEFINED TERMS:

"Site" § 8-101

** DEFINED TERMS:

"Structure" § 8-101

(f) Person. -- "Person" includes a unit of local government.

** SPECIAL REVISOR'S NOTE

Chapter 427, Acts of 2012, added this subsection.

(g) Routine maintenance. -- "Routine maintenance" means work that:

(1) does not alter the exterior fabric or features of a site or structure; and

(2) has no material effect on the historical, archaeological, or architectural significance of the site or structure.

**** SPECIAL REVISOR'S NOTE**

As enacted by Ch. 426, Acts of 2012, this subsection was subsection (f) of this section, formerly Art. 66B, § 8.01(a)(5). However, Ch. 427, Acts of 2012, added a new subsection (f) and renumbered the remaining subsections accordingly.

**** SPECIAL REVISOR'S NOTE**

The only changes were in style.

**** DEFINED TERMS:**

"Site" § 8-101

**** DEFINED TERMS:**

"Structure" § 8-101

(h) Site. -- "Site" means the location of:

(1) an event of historic significance; or

(2) a structure or ruin that possesses historic, archaeological, or cultural significance.

**** SPECIAL REVISOR'S NOTE**

As enacted by Ch. 426, Acts of 2012, this subsection was subsection (g) of this section, new language derived without substantive change from former Art. 66B, § 8.01(a)(6). However, Ch. 427, Acts of 2012, added a new subsection (f) and renumbered the remaining subsections accordingly.

**** DEFINED TERM:**

"Structure" § 8-101

(i) Structure. --

(1) "Structure" means a combination of material to form a construction that is stable.

(2) "Structure" includes:

- (i) a building;
- (ii) a stadium;
- (iii) a reviewing stand;
- (iv) a platform;
- (v) staging;
- (vi) an observation tower;
- (vii) a radio tower;
- (viii) a water tank or tower;
- (ix) a trestle;
- (x) a bridge;
- (xi) a pier;
- (xii) paving;
- (xiii) a bulkhead;
- (xiv) a wharf;
- (xv) a shed;
- (xvi) a coal bin;
- (xvii) a shelter;
- (xviii) a fence;
- (xix) a display sign that is visible or intended to be visible from a public way; and
- (xx) a part of a structure.

**** SPECIAL REVISOR'S NOTE**

As enacted by Ch. 426, Acts of 2012, this subsection was subsection (h) of this section, new language derived without substantive change from former Art. 66B, § 8.01(a)(7)(i), (ii), and (iv). However, Ch. 427, Acts of 2012, added a new subsection (f) and renumbered the remaining subsections accordingly.

**** SPECIAL REVISOR'S NOTE**

The Land Use Article Review Committee noted, for consideration by the General Assembly, that the comprehensive definition of "structure" in paragraph (1) of this subsection was very broad and perhaps overly inclusive.

§ 8-102. Declaration of public purpose.

It is a public purpose in the State to preserve sites, structures, and districts of historical, archaeological, or architectural significance and their appurtenances and environmental settings.

§ 8-103. Scope and construction of title.

(a) Scope of title. -- The preservation of a designated structure under this title includes preservation of an associated:

- (1) natural land formation; and
- (2) appurtenance and environmental setting.

(b) Construction of title. -- This title may not be construed to prevent routine maintenance, customary farming operations, or landscaping that does not have a material effect on the historic, archaeological, or architectural significance of a designated site, structure, or district.

§ 8-104. Regulation of sites and structures.

(a) Powers of legislative body. -- The legislative body of each local jurisdiction, by local law, may regulate:

- (1) the construction, reconstruction, alteration, moving, and demolition of sites or structures of historical, archaeological, or architectural significance;
- (2) the construction, reconstruction, alteration, moving, and demolition of sites and structures within districts; and
- (3) the appurtenances and environmental settings of sites and structures within the limits of the local jurisdiction.

(b) Purpose of local law. -- The purpose of a local law adopted under this section is to:

- (1) safeguard the heritage of the local jurisdiction by preserving sites, structures, or districts that reflect elements of cultural, social, economic, political, archaeological, or architectural history;
- (2) stabilize and improve the property values of those sites, structures, or districts;
- (3) foster civic beauty;
- (4) strengthen the local economy; and
- (5) promote the preservation and appreciation of those sites, structures, and districts for the education and welfare of the residents of each local jurisdiction.

§ 8-105. Designation of boundaries for sites, structures, and districts.

For the purposes of this title, each local jurisdiction may designate boundaries for sites, structures, and districts that are considered to be of historic, archaeological, or architectural significance, by following the procedures of the local jurisdiction for establishing or changing zoning districts and classifications.

§ 8-201. Establishment.

A local jurisdiction may create a historic district commission or a historic preservation commission.

§ 8-202. Membership.

(a) Composition. --

- (1) A commission shall consist of at least five members.
- (2) A majority of the members of a commission shall be residents of the local jurisdiction that created the commission.

(b) Qualifications. --

(1) Each member of a commission shall have a demonstrated special interest, specific knowledge, or professional or academic training in:

- (i) history;
- (ii) architecture;
- (iii) architectural history;
- (iv) planning;
- (v) archaeology;

- (vi) anthropology;
- (vii) curation;
- (viii) conservation;
- (ix) landscape architecture;
- (x) historic preservation;
- (xi) urban design; or
- (xii) a related discipline.

(2) A local jurisdiction that creates a commission may establish and publicly adopt additional qualifications for a member of the commission.

(c) Tenure; vacancies. --

- (1) The term of a member of a commission is 3 years.
- (2) The terms of the members shall be staggered.
- (3) A member is eligible for reappointment.
- (4) The appointing authority shall fill any vacancy on a commission for the unexpired term of the vacant position.

(d) Removal. --

(1) A member of a commission may be removed by the appointing authority for:

- (i) incompetence;
- (ii) misconduct; or
- (iii) in the same manner as for a member of a State board or commission:

- 1. failure to attend meetings under § 8-501 of the State Government Article; or
- 2. conviction of a crime in accordance with § 8-502 of the State Government Article.

(2) The appointing authority shall provide to the member:

- (i) a written statement of charges stating the grounds for removal; and
- (ii) an opportunity for a public hearing to contest the charges.

(e) Alternate member. --

(1) Each local jurisdiction may designate one alternate member for the commission who may sit on the commission when any other member of the commission is absent.

(2) When the alternate member is absent, the local jurisdiction may designate a temporary alternate.

§ 8-203. Meetings.

(a) Rules and regulations. -- A commission shall adopt rules and regulations necessary for the conduct of its business.

(b) Right to appear. -- An interested person or representative of an interested person may appear and be heard at a public hearing that a commission conducts.

§ 8-204. Accepting gifts.

Subject to any requirements of the local jurisdiction that relate to the acceptance and use of gifts by public officials, a commission may accept and use gifts as needed to perform its duties.

§ 8-205. Powers.

(a) Acquisition of easements. --

(1) Subject to any requirements of the local jurisdiction that relate to the acquisition of easements, a commission may acquire easements in connection with individual sites or structures, or with sites or structures located in or adjacent to a locally designated historic district.

(2) An easement acquired by a commission may grant to the commission, the residents of the historic district, and the 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, archaeological, or architectural significance of the site, structure, or surrounding property.

(b) Designation of Maryland Historical Trust. --

(1) A commission may designate the Maryland Historical Trust to analyze and make recommendations on the preservation of sites, structures, or districts of historic, archaeological, architectural, or cultural significance within the area the commission serves.

(2) The recommendations of the Maryland Historical Trust may include:

- (i) proposed boundaries for sites, structures, and districts; and
- (ii) the identification and designation of the sites, structures, and districts to be preserved.

§ 8-301. Guidelines for rehabilitation and new construction design.

(a) Adoption. -- A local jurisdiction shall adopt guidelines for rehabilitation and new construction design for designated sites, structures, and districts that are consistent with those generally recognized by the Maryland Historical Trust.

(b) Contents. -- The guidelines adopted under this section may include:

(1) design characteristics intended to meet the needs of particular types of sites, structures, and districts; and

(2) identification of categories of changes that are so minimal in nature that they do not:

- (i) affect historic, archaeological, or architectural significance; and
- (ii) require review by a commission.

§ 8-302. Application for changes to sites or structures -- In general.

(a) Application. -- A person shall file an application with the commission before constructing, reconstructing, altering, moving, or demolishing a site or structure located within a locally designated district if any exterior changes are involved that would affect the historic, archaeological, or architectural significance of the site or structure, any portion of which is visible or intended to be visible from a public way.

(b) Approval or rejection of application. --

(1) An application filed under subsection (a) of this section shall be considered and approved or rejected by the commission.

(2) The commission may reject an application based only on the considerations listed in § 8-303(a) of this subtitle.

(c) Resubmission of application. -- An applicant may not resubmit an application that is identical to a rejected application for 1 year after the rejection.

(d) Restrictions. -- A local jurisdiction may not grant a permit for a change to a locally designated site or structure, or to a site or structure located in a locally designated district, until the commission has acted on the application in accordance with § 8-303(a) of this subtitle.

§ 8-303. Application for changes to sites or structures -- Review of application.

(a) Requirements. -- In reviewing an application, a commission shall:

(1) use the guidelines adopted under § 8-301 of this subtitle; and

(2) consider:

(i) the historic, archaeological, or architectural significance of the site or structure and its relationship to the historic, archaeological, or architectural significance of the surrounding area;

(ii) the relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;

(iii) the general compatibility of exterior design, scale, proportion, arrangement, texture, and materials proposed to be used; and

(iv) any other factors, including aesthetics, that the commission considers pertinent.

(b) Restrictions. -- A commission shall consider only the exterior features of a structure.

§ 8-304. Plans for sites or structures.

(a) Requirements. -- A commission shall strictly judge plans for sites or structures determined by research to be of historic, archaeological, or architectural significance.

(b) Prohibitions. -- Unless the plans would seriously impair the historic, archaeological, or architectural significance of the surrounding site or structure, a commission may not strictly judge plans:

(1) for a site or structure of little historic, archaeological, or architectural significance; or

(2) involving new construction.

(c) Limitations on architectural style. -- A commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one period.

§ 8-305. Preservation of sites or structures.

(a) Plan for preservation. -- A commission shall attempt, with the owner of a site or structure, to formulate an economically feasible plan to preserve the site or structure if:

(1) 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; and

(2) the commission considers preservation of the site or structure to be of unusual importance to the local jurisdiction, the State, or the nation.

(b) Rejection of application. -- Unless the commission is satisfied that the proposed construction, reconstruction, or alteration will not materially impair the historic, archaeological, or architectural significance of the site or structure, the commission shall:

(1) reject the application; and

(2) file a copy of its rejection with the building inspector of the local jurisdiction.

(c) Negotiations for preservation. -- The commission shall have 90 days after the date on which the commission concludes that an economically feasible plan cannot be formulated under this section to negotiate with the owner and other parties to find a means of preserving the site or structure.

(d) Exceptions. -- If a site or structure is considered to be valuable for its historic, archaeological, or architectural significance, a commission may approve proposed construction, reconstruction, alteration, moving, or demolition, despite the fact that the changes come within the provisions of this section if:

(1) the site or structure is a deterrent to a major improvement program that will be of substantial benefit to the local jurisdiction; or

(2) the retention of the site or structure would:

(i) cause undue financial hardship to the owner; or

(ii) not be in the best interests of a majority of persons in the community.

§ 8-306. Certificate of approval, modification, or rejection.

(a) Filing with building inspector. --

(1) A commission shall file with the building inspector of the local jurisdiction a certificate of the commission's approval, approval with conditions, or modification, or written notice of rejection of an application or plan submitted to the commission for review.

(2) An applicant may not begin work on a project submitted to the commission for review until the commission has filed the certificate of approval, approval with conditions, or modification with the building inspector.

(3) The building inspector may not issue a building permit for a change or construction submitted to

the commission for review until the building inspector has received the certificate of approval, approval with conditions, or modification from the commission.

(b) Issuance to owner, lessee, or tenant. -- If there is no building inspector in the local jurisdiction:

(1) a commission shall issue a certificate of the commission's approval, approval with conditions, or modification, or a written notice of rejection, to the owner, lessee, or tenant of the property that is the subject of the application or plan; and

(2) the owner, lessee, or tenant may not begin the proposed work or change until the commission has issued the certificate of approval, approval with conditions, or modification.

§ 8-307. Failure to act on completed application.

If a commission fails to act on a completed application within 45 days after the date when the completed application was filed, the application shall be considered approved unless:

- (1) the applicant and the commission agree to an extension of the 45-day period; or
- (2) the application is withdrawn.

§ 8-308. Appeal of decision.

Any person aggrieved by a decision of a commission may appeal the decision in the manner provided for an appeal from the decision of the planning commission of the local jurisdiction.

§ 8-401. Conversion of overhead facilities.

(a) Local laws. --

(1) Each local jurisdiction in which a district is designated may enact local laws requiring that:

- (i) utility companies relocate existing overhead lines and facilities underground within the defined part of the district or the entire district; and
- (ii) if necessary, private owners who receive service from the relocated lines and facilities place any connection underground.

(2) A local law enacted under this section shall:

- (i) require that the estimated cost to property owners for work performed on private property be determined and made available to affected property owners;
- (ii) provide financing for these costs to private owners, including financing for any charges for the amortization of bonds issued to initially cover private costs; and
- (iii) include any other provisions reasonably related to placing overhead lines and facilities underground and administering underground relocation projects.

(b) Apportionment of costs by Public Service Commission. --

(1) Except as otherwise provided in this section, the Public Service Commission shall:

(i) determine the amount of the monthly surcharge required to support the net capital costs of an underground relocation and determine which customers of the applicable utility are subject to the surcharge;

(ii) include the related net capital costs in the rate base; or

(iii) adopt any other method to appropriately apportion the costs.

(2) A utility may not be required to pay more than one-half of the net capital costs of an underground relocation.

(c) Appropriation by local jurisdiction. -- A local jurisdiction may appropriate money for underground relocation projects from any federal, State, and local funds the local jurisdiction receives for that purpose.

(d) Agreements with property owners. --

(1) In implementing subsection (a)(2)(ii) of this section, the local jurisdiction may enter into an agreement with individual property owners under which the local jurisdiction agrees to advance funds to cover the property owners' costs for the relocation of the overhead lines and facilities.

(2) (i) The local jurisdiction may appropriate money, impose taxes, or borrow money to pay and advance the costs of an underground relocation.

(ii) In order to recapture expended costs, the local jurisdiction may:

1. impose a benefit assessment against property in the district on behalf of which the utility is relocated underground; and

2. provide for the collection of the assessment.

§ 8-501. Request for enforcement.

A commission may request that the appropriate enforcement authority of the local jurisdiction seek any of the remedies and penalties provided by law for any violation of a local law adopted under this title.