

§9-4 HISTORIC PRESERVATION

§9-4-1	TITLE
§9-4-2	PURPOSE
§9-4-3	DEFINITIONS
§9-4-4	CREATION OF HISTORIC PRESERVATION COMMISSION
§9-4-5	COMPOSITION OF THE COMMISSION
§9-4-6	POWERS OF THE COMMISSION
§9-4-7	RULES OF PROCEDURE
§9-4-8	DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES
§9-4-9	CRITERIA FOR SELECTION OF HISTORIC DISTRICTS
§9-4-10	CRITERIA FOR DESIGNATION OF PROPERTIES
§9-4-11	PUBLIC HEARING AND NOTICE REQUIREMENTS
§9-4-12	RECOMMENDATION BY COMMISSION
§9-4-13	REVIEW BY STATE OFFICE OF HISTORIC PRESERVATION
§9-4-14	ACTION BY LOCAL GOVERNING BODY
§9-4-15	NOTIFICATION FOLLOWING ORDINANCE ADOPTION
§9-4-16	AMENDMENT TO DISTRICT AND PROPERTY DESIGNATIONS
§9-4-17	CERTIFICATE OF APPROPRIATENESS REQUIRED
§9-4-18	PRE-APPLICATION CONFERENCE
§9-4-19	APPLICATION REQUIREMENTS
§9-4-20	NOTICE TO ABUTTING PROPERTY OWNERS
§9-4-21	PUBLIC HEARING AND NOTICE
§9-4-22	CRITERIA FOR ACTING ON CERTIFICATES OF APPROPRIATENESS
§9-4-23	ACTION BY THE COMMISSION
§9-4-24	CHANGES AFTER COMMISSION APPROVAL
§9-4-25	APPEALS
§9-4-26	EXCLUSION
§9-4-27	VARIATIONS
§9-4-28	ENFORCEMENT
§9-4-29	PENALTIES
§9-4-30	INCORPORATION CLAUSE

[See Commentary]

§9-4-1 TITLE

This Resolution [Ordinance], fully titled “An Ordinance To Establish A historic Preservation Commission In [the jurisdiction]; To Provide For Designation Of Historic Properties Or Historic Districts; To Provide For Issuance Of Certificates Of Appropriateness; To Provide For An Appeals Procedure; To Repeal Conflicting Ordinances; And For Other Purposes,” shall be known and may be cited in short title as the “Historic Preservation Ordinance.”

§9-4-2 PURPOSE

This Resolution [Ordinance] is enacted to:

- (a) Support and further findings and determinations that the historical, cultural, and aesthetic heritage of [the jurisdiction] is among its most valued and important assets,

- and that the preservation of this heritage is essential to the promotion of public health, prosperity and general welfare;
- (b) Stimulate revitalization of the business districts and historic neighborhoods as well as protect and enhance local historical and aesthetic attractions to tourists, thereby promoting and stimulating business; and
 - (c) Enhance the opportunities for federal tax relief of property owners under relevant provisions of the Economic Recovery Tax Act of 1981, allowing tax investment credits for rehabilitation of certified historic structures (26 U.S.C.A., Section 191).

The Board of Commissioners [Mayor and Council] hereby declares it to be the purpose and intent of this Resolution [Ordinance] to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation, and use of places, districts, sites, buildings, structures, and works of art having a special historical, cultural, or aesthetic interest or value, in accordance with the provisions of the Resolution [Ordinance].

This Resolution [Ordinance] is adopted pursuant to the requirements of O.C.G.A. Section 44-10-26 (The Georgia Historic Preservation Act - Acts 1980, pages 1723-1729).

§9-4-3 DEFINITIONS

Certificate of appropriateness: A document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

Exterior architectural features: The architectural style, general design, and general arrangement of the exterior of a building or other structure, including, but not limited to, the type and/or texture of the building material, and the type and/or style of windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features: All those aspects of the landscape or the development of the site that affect the historical character of the property.

Historic district: A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the [Mayor and Council or Board of Commissioners].

Historic property: An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Board of Commissioners [Mayor and City Council].

Material change in appearance: A change that will affect either the exterior architectural or environmental features of a historic property or any structure, site or work of art within a historic district, and may include any one or more of the following:

- (a) A reconstruction or alteration of the size, shape, or façade of a historic property, including any of its architectural elements or details;
- (b) Demolition of a historic structure;
- (c) Commencement of excavation for construction purposes;
- (d) A change in the location of advertising visible from the public right-of-way; and
- (e) The erection, alteration, restoration, or removal of any building or other structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

§9-4-4 CREATION OF HISTORIC PRESERVATION COMMISSION

A Historic Preservation Commission is hereby created. The jurisdiction of the Commission shall be the unincorporated portions of _____ County [the city limits of the City of _____].

§9-4-5 COMPOSITION OF THE COMMISSION

The Historic Preservation Commission shall consist of three members appointed by the County Commission Chairman [Mayor] and ratified by the Board of Commissioners [City Council], who shall be residents of [the jurisdiction], who have demonstrated special interest, experience, or education in history, architecture, or the preservation of historic resources. Members shall serve three-year terms. Members may not serve more than two consecutive terms. In order to achieve staggered terms, initial appointments shall be; one member for one year; one member for two years; and one member for three years. Members do not receive a salary, although they may be reimbursed for expenses.

§9-4-6 POWERS OF THE COMMISSION

The Historic Preservation Commission shall be authorized to:

- (a) Prepare an inventory of all property within its respective historic preservation jurisdiction having the potential for designation as historic property.
- (b) Recommend to the [City Council/County Commission] specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts.
- (c) Review applications for Certificates of Appropriateness, and grant or deny the same in accordance with the provisions of this Resolution [Ordinance].
- (d) Recommend to the [City Council/County Commission] that the designation of any place, district, site, building, structure, or work of art as a historic property or as a historic district be revoked or removed.
- (e) Restore or preserve any historic properties acquired by the [City/County].
- (f) Promote the acquisition by the [City/County] of façade easements and conservation easements in accordance with the provisions of the “Façade and Conservation Easements Act of 1976” (Georgia Laws 1976, p. 1181).
- (g) Conduct an educational program on historic properties located within its historic preservation jurisdiction.
- (h) Make such investigations and studies of matters relating to historic preservation as the Local Governing Body or the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.
- (i) Seek out state and federal funds for historic preservation, and make recommendations to the [City/County] concerning the most appropriate uses of any funds acquired.
- (j) Submit to the Historic Preservation Section of the Department of Natural Resources a list of historic properties or historic districts designated.
- (k) Perform historic preservation activities as the official agency of [City/County] historic preservation program.
- (l) Employ persons, if necessary, to carry out the responsibilities of the Commission.

- (m) Receive donations, grants, funds, or gifts of historic property, and acquire and/or sell historic properties. The Commission shall not obligate the [City/County] without prior consent.
- (n) Review and make comments to the State Historic Preservation Office concerning the nomination of properties within its jurisdiction to the National Register of Historic Places.

§9-4-7 RULES OF PROCEDURE

The Commission shall adopt rules for the transaction of its business and consideration of applications. It shall provide for the time and place of regular meetings, and for the calling of special meetings. The Commission shall have the flexibility to adopt rules of procedure without amendment to this Resolution [Ordinance]. A quorum shall consist of a majority of all members. The latest edition of Roberts' Rules of Order shall determine the order of business at all meetings. A public record shall be kept of the Commission's resolutions, proceedings, and actions.

§9-4-8 DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES

The Commission shall have the authority to compile and collect information, conduct surveys of historic resources within [the jurisdiction], and recommend districts and buildings to (City Council/County Commission) for designation as being "historic." A historical society, neighborhood association, or group of property owners may apply for historic district designation. A historical society or property owner may apply for designation as a historic property. The Commission shall present to the [City Council/County Commission] nominations for historic districts and local properties. The Commission shall prepare formal reports when nominating historic districts or local properties. These reports shall be used to educate the community and to provide a permanent record of the designation. The report will follow guidelines for nominating structures to the National Register of Historic Places (National Preservation Act of 1966), and shall consist of two parts: 1) a physical description, and 2) a description of historic significance. This report shall be submitted to the Historic Preservation Section of the Department of Natural Resources.

The boundaries of any historic district shall be specified on tax maps. Boundaries specified in legal notices required by this Resolution [Ordinance] shall coincide with the boundaries finally designated. Districts shall be shown on the official land use intensity districts map, or, in the absence of such a map, on an official map designated as a public record.

§9-4-9 CRITERIA FOR SELECTION OF HISTORIC DISTRICTS

The Commission may recommend as a historic district any geographically definable area which contains structures, sites, works of art, or a combination thereof, which:

- (a) Have special character or special historic/aesthetic value or interest.
- (b) Represent one or more periods or styles of architecture typical of one or more eras in the history of the municipality, county, state or region.
- (c) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.

§9-4-10 CRITERIA FOR DESIGNATION OF PROPERTIES

The Commission may recommend, as a historic property, any structure, site, work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to [the jurisdiction], State of Georgia, or local region, for one or more of the following reasons:

- (a) It is an outstanding example of a structure representative of its era.
- (b) It is one of the few remaining examples of past architectural style.
- (c) It is a place or structure associated with an event or person of historic or cultural significance to [the jurisdiction], State of Georgia, or the region.

Boundaries shall be clearly defined for individual properties on tax maps and shall also be shown on the Official Land Use Intensity Districts Map, or, in the absence of such a map, on an official map designated as a public record.

§9-4-11 PUBLIC HEARING AND NOTICE REQUIREMENTS

The Commission and the Local Governing Body shall each hold a public hearing on the proposed Resolution [Ordinance] or action to designate a historic district or property. Notice of the hearing shall be published in at least three consecutive issues in the legal organ of [the jurisdiction], and the Commission shall mail written notice of the hearing to all owners and occupants of properties included within the proposed designation. In addition, the Commission shall notify all agencies and organizations within [the jurisdiction] with an interest in historic preservation of the proposed designation, specifically including the local historical society, if any, of the proposed Resolution [Ordinance] or action. All such notices shall be published or mailed not less than 10, nor more than 20, days prior to date set for the public hearing. A letter sent via the United States mail to the last known owner of the property shall constitute legal notification under this Resolution [Ordinance].

§9-4-12 RECOMMENDATION BY COMMISSION

The Commission shall recommend acceptance or denial of any historic district or property designation within 15 days following the public hearing held by the Commission, which shall be in the form of a resolution to the [City Council/County Commission] recommending approval or disapproval of the designation.

§9-4-13 REVIEW BY STATE OFFICE OF HISTORIC PRESERVATION

Upon the recommendation that any property or district be considered “Historic,” and prior to consideration by the Local Governing Body of any Resolution [Ordinance] to officially designate such historic district or property, the Commission shall submit a report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building/structure, or work of art, to the Historic Preservation Office of the Georgia Department of Natural Resources. The Office of Historic Preservation shall have at least 30 days to prepare written comments on the proposed designation or designations.

§9-4-14 ACTION BY LOCAL GOVERNING BODY

A decision by the Local Governing Body to accept or reject the designation of any historic district or property designation shall be made within 30 days following the public hearing held by the Local Governing Body, and, if approved, it shall be in the form of a Resolution [Ordinance]. Any Resolution [Ordinance] designating any property or district as historic shall:

- (a) Describe each property to be designated or refer to a map clearly showing each property;
- (b) Set forth the names(s) of the owners(s) of the designated property or properties; and
- (c) Require that a certificate of appropriateness be obtained from the Historic Preservation Commission prior to any material change in appearance of the designated property.

§9-4-15 NOTIFICATION FOLLOWING ORDINANCE ADOPTION

Within 30 days immediately following the adoption of an ordinance designating a historic district or property, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site, or work of art located within a designated historic district shall be given written notice of such designation which shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.

§9-4-16 AMENDMENT TO DISTRICT AND PROPERTY DESIGNATIONS

The boundary of any district or property may be amended in conformance with the provisions of this Resolution [Ordinance] relative to public hearings and notice and in conformance with all applicable provisions of O.C.G.A. Section 44-10-26 et seq.

§9-4-17 CERTIFICATE OF APPROPRIATENESS REQUIRED

After the designation by ordinance of a historic district or property, no “material change in the appearance,” of such historic property, or of a structure, site, or work of art within such historic district, as defined by this Resolution [Ordinance], or any individual property, shall be made or be permitted to be made by the owner or occupant thereof, unless or until application for a certificate of appropriateness has been submitted to and approved by the Commission. A certificate of appropriateness must be issued by the [Land Use Officer, Historic Preservation Officer, or other designated officer], after approval by the Historic Preservation Commission, prior to any material change in appearance in such district or to any property.

[See Commentary]

§9-4-18 PRE-APPLICATION CONFERENCE

All applicants for a certificate of appropriateness are strongly encouraged, but not required, to schedule a pre-application conference with the [Land Use Officer, Historic Preservation Officer, or other designated officer], or his or her designee. A pre-application conference is a time where applicants can familiarize themselves with the application requirements and processes, and gain preliminary input from staff as to the suitability of the proposed material change in

appearance. Typically, the Commission is not represented at a pre-application conference, although this does not preclude one or more members of the Commission from attending and participating in a pre-application conference.

§9-4-19 APPLICATION REQUIREMENTS

All applications for a certificate of appropriateness shall be made as required by the [Land Use Officer, Historic Preservation Officer, or other designated officer], and shall at a minimum contain the following information.

§9-4-19.1 Elevation Drawings, Color and Material Samples. Every application or review involving the construction of a new building or structure and alterations and/or additions to existing structures in any historic district or within a property designated as a historic property shall be accompanied by exterior elevation drawings drawn to a specified scale and signed by an architect, engineer or other appropriate professional and submitted in sufficient number of copies as required by the [Land Use Officer, Historic Preservation Officer, or other designated officer]. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed change(s) to buildings or structures and new construction, as applicable. Each application shall also indicate proposed materials, textures and colors, and provide samples of materials and colors.

§9-4-19.2 Photographs. Photographs of all sides of the affected existing building(s) or structure(s) visible from the street shall accompany all applications, as well as adjoining properties. Photographs of all sides of the building visible from the street shall accompany applications for the demolition of structures under consideration for demolition, as well as photographs showing contiguous properties. Photographs shall be submitted in printed copy and in digital form unless otherwise specified by the [Land Use Officer, Historic Preservation Officer, or other designated officer].

§9-4-19.3 Site Plan and Landscaping Plan. For every application, a plot plan or site plan drawn to a specified scale shall be submitted which shows all improvements affecting appearances visible from the street, such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs, lights, and other elements. In the case of a building or structure demolition, the site plan and landscaping plan shall show how the foundation area will be restored.

§9-4-19.4 Fee. A fee, as may be established by the Board of Commissioners [Mayor and City Council], shall be submitted for said application.

§9-4-19.5 Additional Information. Any additional information as may reasonably be required by the [Land Use Officer, Historic Preservation Officer, or other designated officer], shall be submitted with the application.

Where, in the opinion of the [Land Use Officer, Historic Preservation Officer, or other designated officer], a requested change would be considered minor, the [Land Use Officer, Historic Preservation Officer, or other designated officer], may vary or waive any of the information requirements of this section for applications for a certificate of appropriateness.

§9-4-20 NOTICE TO ABUTTING PROPERTY OWNERS

Prior to reviewing an application for a certificate of appropriateness, the Historic Preservation Commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected materially by the application and shall give the applicant and such owners the opportunity to be heard. At a minimum, this provision shall require a written notice of the time and date of the meeting of the Historic Preservation Commission. At this time the

application will be considered by all property owners as shown on the County or City tax records with property abutting the subject property, and mailed no less than 10 days preceding the date of the Commission's meeting.

§9-4-21 PUBLIC HEARING AND NOTICE

In all applications involving the demolition of a structure, provisions shall be made for a public hearing before the Historic Preservation Commission. In other cases where the Commission deems it necessary, it may hold a public hearing concerning any other application for a certificate of appropriateness. The Commission shall hear from the public, as appropriate and as directed by the Chairman, without the necessity of advertising a public hearing. In the event a public hearing is required pursuant to this section or the Historic Preservation Commission elects to conduct an advertised public hearing, notice of said public hearing shall be provided in accordance with the provisions of this section.

At least a 10-day notice of the time and place of each public hearing shall be given by the Zoning Director as follows:

- (a) In writing to the applicant and abutting property owners;
- (b) By publication at least once in the form of an advertisement in a newspaper of general circulation within the city; and
- (c) By sign posted on the property.

§9-4-22 CRITERIA FOR ACTING ON CERTIFICATES OF APPROPRIATENESS

In passing judgment on applications for certificates of appropriateness, the Commission shall consider the appropriateness of any proposed material change in appearance in the context of the following criteria:

- (a) Consistency with the U.S. Secretary of the Interior's "Standards of Rehabilitation."
- (b) Consistency with any adopted design guidelines for historic districts or historic properties.
- (c) Expert advice, if any is sought on the matter.
- (d) The nature and character of the surrounding areas, and the consistency of the proposed application with such nature and character.
- (e) The general design; character, and appropriateness of design; scale of buildings; arrangement, texture, materials, and colors of the structure in question; and the relation of such elements to similar features of structures in the immediate surrounding area, including site and landscaping.
- (f) The Commission shall not consider interior arrangement or use as having any affect on exterior architectural features.

The following defects are among other grounds for considering a design inappropriate.

- (a) Material and color.
- (b) Arresting and spectacular effects.
- (c) Violent contrasts of materials or colors (intense or lurid colors).
- (d) A multiplicity or incongruity of details resulting in a restless and disturbing appearance.
- (e) The absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

§9-4-23 ACTION BY THE COMMISSION

The Historic Preservation Commission shall approve or reject an application for a certificate of appropriateness within 45 days after the filing of a complete application. Failure of the Commission to act within the 45-day period shall constitute approval, and no other evidence of approval shall be needed. Additional time may be taken where the applicant and the Commission have made a mutual agreement for said extension.

The Historic Preservation Commission shall approve the application and direct the [Land Use Officer or other designated officer] to issue a certificate of appropriateness, if: 1) it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property or the historic district, and 2) the Commission finds the application is consistent with the criteria for judging applications for certificates of appropriateness as established in this Resolution [Ordinance].

The Historic Preservation Commission may deny an application for a certificate of appropriateness when, in the opinion of the Commission, such proposed change would be detrimental to the interests of the historic district or historic property and the public. In the event the Commission rejects an application, it shall state its reason(s) for doing so and shall transmit a record of such action and the reasons therefor, in writing, to the applicant. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application. The denial of an application for a certificate of appropriateness shall be binding on the [Land Use Officer, Historic Preservation Officer, or other designated officer] and, in such a case of denial, no building permit shall be issued.

§9-4-24 CHANGES AFTER COMMISSION APPROVAL

No material change in the appearance of a historic property, structure, site or work of art within the historic district shall be made or permitted to be made by the owner or occupant thereof, after the issuance of a certificate of appropriateness, unless and until all requirements of this Resolution [Ordinance] are met.

§9-4-25 APPEALS

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the Board of Commissioners [Mayor and City Council]. The appeal must be filed within 30 days of the decision of the Commission and must be made by petition delivered to the [Land Use Officer, Historic Preservation Officer, or other designated officer]. The appeal shall be on the application exactly as presented to the Commission. The appeal shall be advertised for public notice in accordance with applications for certificates of appropriateness as required by this Resolution [Ordinance]. The Board of Commissioners [Mayor and City Council] may approve, modify and approve, or reject the determination made by the Commission if it finds that the Commission abused its discretion in reaching its decision. Appeals, from decisions of the Board of Commissioners [Mayor and City Council] made pursuant to this section, may be taken to superior court of _____ County in the manner provided by law.

§9-4-26 EXCLUSION

Nothing in this Resolution [Ordinance] shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property, which maintenance or repair does not involve a material change in design, material, or outer appearance thereof, nor to prevent the property owner from making any use of his property not prohibited by other laws, Resolution [Ordinance], or regulations.

§9-4-27 VARIATIONS

Where the strict application of any provision of this Resolution [Ordinance] would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, by reason of unusual circumstances, the Historic Preservation Commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions of this Resolution [Ordinance] or to interpret the meaning of this Resolution [Ordinance] to relieve such difficulty or hardship. However, such variance, modification, or interpretation shall remain in harmony with the general purpose and intent of the provisions of this Resolution [Ordinance] so that the architectural or historic integrity or character of the property shall be conserved and substantial justice done. In granting variations, the Commission may impose such reasonable and additional stipulations and conditions as will in its judgment best fulfill the purpose of this Resolution [Ordinance]. Neither financial constraints alone, nor a situation of a person's own making, shall be considered an undue hardship.

§9-4-28 ENFORCEMENT

After a certificate of appropriateness has been authorized and notification of such has been transmitted to the [Land Use Officer, Historic Preservation Officer, or other designated officer], the [Land Use Officer, Historic Preservation Officer, or other designated officer] shall from time to time inspect the construction approved by such authorization. The County [City], through the [Land Use Officer, Historic Preservation Officer, or other designated officer] or County [City] Attorney, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this Resolution [Ordinance], or to prevent any illegal act or conduct with respect to such historic property or historic district.

§9-4-29 PENALTIES

Violation of any provision of this Resolution [Ordinance] shall be punished in the same manner as provided for the punishment of violations in § _____ of the Code of Resolution [Ordinance] for [the jurisdiction].

§9-4-30 INCORPORATION CLAUSE

This Resolution [Ordinance] is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Resolution [Ordinance]. Where any provision of this Resolution [Ordinance] is in conflict with any provision of the Act, the Act shall control. Or where this Resolution

[Ordinance] is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

[See Commentary] [See References]