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HISTORIC PRESERVATION ORDINANCE

AN ORDINANCE TO ESTABLISH A HISTORIC PRESERVATION COMMISSION IN THE CITY OF HOGANSVILLE, 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.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOGANSVILLE.

SECTION I - PURPOSE

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Hogansville, Georgia, are among its most valued and important assets and the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people; and

In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and thereby promote and stimulate business; and

In order to enhance the opportunities for federal or State tax benefits under relevant provisions of federal or State law; and

In order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or State programs to do the same;

The Hogansville City Council hereby declares it to be the purpose and intent of this Ordinance to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, and landscape features having a special historical, cultural or aesthetic interest or value, in accordance with the provisions of the Ordinance and the Hogansville Design Manual.

SECTION II - DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. The term "building" may refer to a historically related complex such as a courthouse and jail or a house and barn.

Certificate of appropriateness means 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.

Commission means the City of Hogansville Historic Preservation Commission.

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

DRAFT

Exterior environmental features mean all those aspects of the landscape or the development of a site that affect the historical character of the property.

Historic district means a geographically definable area, possessing a significant concentration, linkage, or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A historic district shall further mean an area designated by the Hogansville City Council as a historic district pursuant to the criteria established in section IV B of this Ordinance.

Historic property means an individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the Hogansville City Council as a historic property pursuant to the criteria established in section IV C of this Ordinance.

Material change in appearance means a change that will affect either the exterior architectural or environmental features of a historic property or any building, structure, site, object, or landscape feature within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location of advertising visible from the public right-of-way; or
- (5) The erection, alteration, restoration or removal of any buildings or other structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

Object means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Site means the location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the site itself maintains historical or archaeological value regardless of the value of any existing structure.

Structure means a work made up of interdependent and inter-related parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

SECTION III - CREATION OF A HISTORIC PRESERVATION COMMISSION

- (a) *Creation of the commission.* There is hereby created a commission whose title shall be the "City of Hogansville Historic Preservation Commission" (hereinafter "commission").
- (b) *Commission position within the City of Hogansville.* The preservation commission shall be part of the planning functions of the City of Hogansville.
- (c) *Commission members: number, appointment, terms and compensation.* The commission shall consist of five members appointed by the mayor and ratified by the city council. All members shall be residents of the City of Hogansville and shall be persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources. To the extent available in the City of Hogansville at least three members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or related professions and at least one member shall be appointed from among professionals in the disciplines of building construction or real property appraisal.

Members shall serve three-year terms. In order to achieve staggered terms, initial appointments shall be: one member for one year; two members for two years; and two members for three years.

DRAFT

Members shall not receive a salary, although they may be reimbursed for expenses. Members may be reappointed.

- (d) *Statement of the commission's powers.* The preservation commission shall be authorized to:
- (1) Prepare and maintain an inventory of all property within the City of Hogansville having the potential for designation as historical property;
 - (2) Recommend to the Hogansville City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
 - (3) Review applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this Ordinance;
 - (4) Recommend to the Hogansville City Council that the designation of any district, site, building, structure or object as a historic property or as a historic district be revoked or removed;
 - (5) Restore or preserve any historic properties acquired by the City of Hogansville;
 - (6) Promote the acquisition by the City of Hogansville of facade easements and conservation easements, as appropriate, in accordance with the provisions of the Georgia Uniform Conservation Easement Act of 1992 (O.C.G.A. §§ 44-10-1 through 44-10-5);
 - (7) Conduct educational programs on historic properties located within the City of Hogansville and on general historic preservation activities;
 - (8) Make such investigations and studies of matters relating to historic preservation including consultation with historic preservation experts, the Hogansville City Council or the commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
 - (9) Seek out local, State, federal or private funds for historic preservation, and make recommendations to the Hogansville City Council concerning the most appropriate uses of any funds acquired;
 - (10) Submit to the Historic Preservation Division of the Department of Natural Resources a list of historic properties or historic districts designated;
 - (11) Perform historic preservation activities as the official agency of the Hogansville historic preservation program;
 - (12) Employ persons, if necessary, to carry out the responsibilities of the commission;
 - (13) Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The preservation commission shall not obligate the City of Hogansville without prior consent;
 - (14) Review and make comments to the Historic Preservation Division of the Department of Natural Resources concerning the nomination of properties within its jurisdiction to the National Register of Historic Places; and
 - (15) Participate in private, State and federal historic preservation programs and with the consent of the Hogansville City Council enter into agreements to do the same.
- (e) *Commission's power to adopt rules and standards.* The preservation commission shall adopt rules and standards for the transaction of its business and for consideration of applications for designations and certificates of appropriateness, such as bylaws, removal of membership provisions, and design guidelines and criteria. The preservation commission shall have the flexibility to adopt rules and standards without amendment to this chapter. The commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The commission shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members.

DRAFT

- (f) *Conflict of interest.* The commission shall be subject to all conflict of interest laws set forth in Georgia Statutes and in the City of Hogansville Charter.
- (g) *Commission's authority to receive funding from various sources.* The commission shall have the authority to accept donations and shall ensure that these funds do not displace appropriated governmental funds.
- (h) *Records of commission meetings.* A public record shall be kept of the commission resolutions, proceedings and actions.

State Law reference— Historic preservation commission, O.C.G.A. § 44-10-24 et seq.

SECTION IV - RECOMMENDATION AND DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES.

- (a) *Preliminary research by commission.*
 - (1) *Commission's mandate to conduct a survey of local historical resources.* The commission shall compile and collect information and conduct surveys of historic resources within the City of Hogansville.
 - (2) *Commission's power to recommend districts and buildings to the Hogansville City Council for designation.* The commission shall present to the Hogansville City Council recommendations for historic districts and properties.
 - (3) *Commission's documentation of proposed designation.* Prior to the commission's recommendation of a historic district or historic property to the Hogansville City Council for designation, the commission shall prepare a report for nomination consisting of:
 - a. A physical description;
 - b. A statement of the historical, cultural, architectural and/or aesthetic significance;
 - c. A map showing district boundaries and classification (i.e., contributing, noncontributing) of individual properties therein, or showing boundaries of individual historic properties;
 - d. A statement justifying district or individual property boundaries; and
 - e. Representative photographs.
- (b) *Designation of a historic district.*
 - (1) *Criteria for selection of historic districts.* A historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, which:
 - a. Has special character or special historic/aesthetic value or interest;
 - b. Represents one or more periods, style architecture typical of one or more eras in the history of the city, county, state or region; and
 - c. Causes such area, by reason of such factors, to constitute a visibly perceptible section of the city or county.
 - (2) *Boundaries of a historic district.* Boundaries of a historic district shall be included in the separate ordinances designating such districts and shall be shown on the official zoning map of the City of Hogansville, Georgia.
 - (3) *Evaluation of properties within historic districts.* Individual properties within historic districts shall be classified as:
 - a. Contributing (contributes to the district);
 - b. Noncontributing (does not contribute to the district).

DRAFT

- (c) *Designation of a historic property; criteria for selection of historic properties.* A historic property is a building, structure, site, or object, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the nation, City of Hogansville or the State of Georgia, for one of the following reasons:
- (1) It is an outstanding example of a structure representative of its era;
 - (2) It is one of the few remaining examples of a past architectural style;
 - (3) It is a place or structure associated with an event or persons of historic or cultural significance to the City of Hogansville, the State of Georgia, or the region; or
 - (4) It is the site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the municipality, county, state or region.
- (d) *Requirements for adopting an ordinance for the designation of historic districts and historic properties.*
- (1) *Application for designation of historic districts or property.* Designations may be proposed by the Hogansville City Council, the commission, or:
 - a. For historic districts, a historical society, neighborhood association or group of property owners may apply to the commission for designation;
 - b. For historic properties, a historical society, neighborhood association or property owner may apply to the commission for designation.
 - (2) *Required components of a designation ordinance.* Any ordinance designating any property or district as historic shall:
 - a. List each property in a proposed historic district or describe the proposed individual historic property;
 - b. Set forth the name(s) of the owner(s) of the designated property or properties;
 - c. Require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of the designated property; and
 - d. Require that the property or district be shown on the official zoning map of the City of Hogansville, Georgia, and kept as a public record to provide notice of such designation.
 - (3) *Require public hearings.* The commission and the Hogansville City Council shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three consecutive issues in the principal newspaper of local circulation, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All such notices shall be published or mailed not fewer than ten nor more than 20 days prior to the date set for the public hearing. A notice sent via the United States mail to the last known owner of the property shown on the City of Hogansville tax digest and a notice sent via attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.
 - (4) *Notification of historic preservation division.* No fewer than 30 days prior to making a recommendation on any ordinance designating a property or district as historic the commission must submit the report, required in section IV(a)(3) above, to the Historic Preservation Division of the Georgia Department of Natural Resources.
 - (5) *Recommendations on proposed designations.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the commission within 15 days following the public hearing and shall be in the form of a resolution to the Hogansville City Council.
 - (6) *Hogansville City Council action on the commission's recommendation.* Following receipt of the commission recommendation, the Hogansville City Council may adopt the ordinance as

DRAFT

proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

- (7) *Notification of adoption of ordinance for designation.* Within 30 days following the adoption of the ordinance for designation by the Hogansville City Council, 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 notification of such designation by the Hogansville City Council, which notice 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. A notice sent via the United States mail to the last known owner of the property shown on the City of Hogansville tax digest and a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.
- (8) *Notification of other agencies regarding designation.* The commission shall notify all necessary agencies within the City of Hogansville of the ordinance for designation.
- (9) *Moratorium on applications for alteration or demolition while ordinance for designation is pending.* If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.

State Law reference— Designation of historic properties or historic districts, O.C.G.A. § 44-10-26.

SECTION V - APPLICATION TO PRESERVATION COMMISSION FOR CERTIFICATE OF APPROPRIATENESS.

- (a) *Approval of material change in appearance in historic districts or involving historic properties.* After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of a contributing or noncontributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the commission. A building permit shall not be issued without a certificate of appropriateness.
- (b) *Submission of plans to commission.* An application for a certificate of appropriateness shall be accompanied by drawings, photographs, plans and documentation required by the commission.
- (c) *Interior alterations.* In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangement or use having no effect on exterior architectural features.
- (d) *Technical advice.* The commission shall have the power to seek technical advice from outside its members on any application.
- (e) *Review of applications for certificates of appropriateness.* Prior to reviewing an application for a certificate of appropriateness, the commission shall take such action as may be reasonably required to inform owners of any property likely to be affected materially by the application and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application.
- (f) *Acceptable commission reaction to applications for certificate of appropriateness.* The commission may approve the certificate of appropriateness as proposed, approve the certificate of appropriateness with any modifications it deems necessary, or reject it.
 - (1) *Approval.* The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district. In making this determination, the

DRAFT

commission shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:

- a. *Reconstruction, alteration, new construction or renovation*. The commission shall issue certificates of appropriateness for the above proposed actions if those actions conform in design, scale, building material, setback and site features, and to the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
 - b. *Relocation*. A decision by the commission approving or denying a certificate of appropriateness for the relocation of a building, structure, or object shall be guided by the historic character and aesthetic interest the building, structure or object contributes to its present setting and considering the following:
 1. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be.
 2. Whether the building, structure or object can be moved without significant damage to its physical integrity.
 3. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.
- (2) *Demolition*. A decision by the commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites, trees judged to be 50 years old or older, or object shall be guided by:
- a. The historic, scenic or architectural significance of the building, structure, site, tree, or object.
 - b. The importance of the building, structure, site, tree, or object to the ambiance of a district.
 - c. The difficulty or the impossibility of reproducing such a building, structure, site, tree, or object because of its design, texture, material, detail, or unique location.
 - d. Whether the building, structure, site, tree, or object is one of the last remaining examples of its kind in the neighborhood or the city.
 - e. Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.
 - f. Whether any reasonable measures can be taken to save the building, structure, site, tree, or object from collapse.
 - g. Whether the building, structure, site, tree, or object is capable of earning reasonable economic return on its value.
- (g) *Undue hardship*. When, by reason of unusual circumstances, the strict application of any provision of this chapter would result in the exceptional practical difficulty or undue economic hardship upon any owner of a specific property, the commission, in passing upon applications, shall have the power to vary or modify strict adherence to provisions of this ordinance, or to interpret the meaning of this ordinance, so as to relieve such difficulty or hardship; provided such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property, shall be conserved. In granting variances, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue hardship shall not be a situation of the person's own making.
- (h) *Deadline for approval or rejection of application for certificate of appropriateness*.
- (1) The commission shall approve or reject an application for a certificate of appropriateness within 45 days after the filing thereof by the owner or occupant of a historic property, or of a building structure, site, or object located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission. Notice of the issuance or denial of a

DRAFT

certificate of appropriateness shall be sent by United States mail to the applicant and all other persons who have requested such notice in writing filed with the commission.

- (2) Failure of the commission to act within said 45 days shall constitute approval, and no other evidence of approval shall be needed.
- (i) *Necessary action to be taken by commission upon rejection of application for certificate of appropriateness.*
- (1) In the event the commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, 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 at any time after doing so.
 - (2) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
- (j) *Requirement of conformance with certificate of appropriateness.*
- (1) All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the commission shall issue a cease and desist order and all work shall cease.
 - (2) The Hogansville City Council or the commission shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.
- (k) *Certificate of appropriateness void if construction not commenced.* A certificate of appropriateness shall become void unless construction is commenced within nine months of date of initial issuance. Certificates of appropriateness shall be issued for a period of six months and are renewable.
- (l) *Recording applications for certificate of appropriateness.* The commission shall keep a public record of all applications for certificates of appropriateness, and of all the commission's proceedings in connection with said application.
- (m) *Acquisition of property.* The commission may, where such action is authorized by the Hogansville City Council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, to the property or any interest therein.
- (n) *Appeals.* Any person adversely affected by any determination made by the commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the Hogansville City Council. Any such appeal must be filed with the Hogansville City Council within 15 days after the issuance of the determination pursuant to subsection (h)(1) of this section or, in the case of a failure of the commission to act, within 15 days of the expiration of the 45-day period allowed for the commission action in subsection (h)(2) of this section. The Hogansville City Council may approve, modify, or reject the determination made by the commission, if the governing body finds that the commission abused its discretion in reaching its decision. Appeals from decisions of the Hogansville City Council may be taken to the Superior Court of Troup County in the manner provided by law for appeals from conviction for the City of Hogansville ordinance violations.

State Law reference— Certificates of appropriateness, O.C.G.A. § 44-10-27 et seq.

DRAFT

SECTION 6 - MAINTENANCE OF HISTORIC PROPERTIES AND BUILDING AND ZONING CODE PROVISIONS.

- (a) *Ordinary maintenance or repair.* Ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a certificate of appropriateness.
- (b) *Failure to provide ordinary maintenance or repair.* Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The commission shall be charged with the following responsibilities regarding deterioration by neglect:
 - (1) The commission shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Such conditions as broken windows, doors and openings which allow the elements and vermin to enter, the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.
 - (2) In the event the commission determines a failure to provide ordinary maintenance or repair, the commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property will have 30 days in which to do this.
 - (3) In the event that the condition is not remedied in 30 days, the commission, at the direction of the Hogansville City Council, may perform such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the commission.
- (c) *Affirmation of existing building and zoning codes.* Nothing in this chapter shall be construed as to exempt property owners from complying with existing city or county building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.

State Law reference— Maintenance or repair allowed, O.C.G.A. § 44-10-29.