



FANNIN COUNTY HISTORIC PRESERVATION COMMISSION ORDINANCE

December 14, 2023

1. PURPOSE

The Board of Commissioners hereby declare it to be the purpose and intent of this article 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 this article.

2. CREATION

(a) Creation of the Commission: The title of the commission shall be the "Fannin County Historic Preservation Commission." Commission members shall be appointed by the board of commissioners and will have only advisory authority in recommending landmark and historic district designation.

(b) Commission Position within the Fannin County Government: The commission shall be considered a part of the planning functions of the county.

(c) Commission Members; Numbers, Appointments Terms, and Compensation: The commission shall consist of five (5) members appointed by the board of commissioners, who shall be residents of the county 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 (2) full three (3) year consecutive terms. To achieve staggered terms, initial appointments shall be two (2) for one (1) year; two (2) members for two (2) years; and one (1) member for three (3) years. Members do not receive a salary, although they may be reimbursed for expenses if approved by the board of commissioners.

(d) Statement of the Commissions Powers: The commissions shall be authorized to:

(1) Prepare an inventory of all property within Fannin County having a potential for designation as historic property.

(2) Recommend to the board of commissioner that specific places, districts sites, buildings, structures or works of art 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 article.

(4) Recommend to the board of commissioners that the designation of any place, district, site, building, structure, or work of art as an historic property or as an historic district be revoked or removed.

(5) Restore or preserve any historic properties acquired by the county, with the approval of the board of commissioners.

(6) Promote the acquisition by the county of façade easement a conservation easement in accordance with the “Façade and Conservation Easement Act pf 1976”, 1976 Georgia Laws, Page 1181:

(7) Conduct an educational program on historic properties located within Fannin County.

(8) Make such investigations and studies of matters relating to historic preservation as the board of commissioners may, from time to time, deem necessary or appropriate for the purpose of Preserving historic resources.

(9) Seek out state and federal funds for historic preservation and make recommendations to the board of county commissioners concerning the most appropriate uses of any funds acquired.

(10) Submit to the historic preservation section of the Georgia Department of Natural Resources a list of historic properties or historic districts designated.

(11) Preform historic preservation activities as the official agency of county historic preservation program, with the consent of the board of commissioners.

(12) Receive donations, grants, funds, or gifts of historic property, and acquire and sell historic properties; the commission shall not obligate the county without the board of commissioner’s prior consent.

(13) Review and make comments to the state historic preservation office concerning the nomination of properties within Fannin County to the National Register of Historic Places.

(14) The commission shall not financially obligate the county in any manner without prior approval of the board of commissioners.

(e) Commission's power to Adopt rules or Procedure: The commission shall adopt rules for the transaction of its business and consideration of applications and shall provide for the time and place or regular meetings and for the calling of special meetings. The commission shall have the flexibility to adopt rules of procedure without amendment to this article. A quorum shall consist of a majority of its members. The latest edition of Robert's Rules of Order shall determine the order of business at all meetings.

(f) Commission's Authority to Receive Funding from Various Sources: The commission shall have the authority to accept donations and shall insure that these funds do not displace appropriate governmental funds.

(g) Records of Commission Meetings: A public record shall be kept of the commission's resolutions, proceedings, and actions.

(3) DESIGNATION OF HISTORIC DISTRICTS AND LANDMARKS:

(a) Preliminary Research by the Commission:

(1) Commissions mandate to conduct a survey of local historical resources: The commission shall have the authority to compile and collect information and conduct surveys of historic resources within the county.

(2) Commissions power to recommend districts and buildings to the board of commissioners for designation: The commission shall present to the board of commissioners its nominations for historic districts and local landmarks.

(3) Preparation of a report on proposed designations: The commission shall prepare formal reports when nominating historic districts or local landmarks. These reports shall be used to educate the community and to provide a permanent record of the structures of the National Register of Historic Places (National Preservation Act of 1966) and shall consist of two (2) parts:

- a. A physical description; and
- b. A description of historic significance.

This report will be submitted to the historic preservation section of the Georgia Department of Natural Resources.

(b) Designation of Historic District:

(1) Criteria for selection of historic districts: an historic district is a geographically definable area which contains structures sites, works of art, or a combination thereof, which:

- a. Have a character or special historic/ aesthetic value or interest.**
- b. Represent one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the country, state, or region.**
- c. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the county.**

(2) Boundaries of an historic district: Boundaries of an historic district shall be specified on tax maps; these boundaries will be included in the separate ordinance designating local districts. Boundaries specified in legal notices shall coincide with the boundaries finally designated. Districts shall be shown on the official zoning map (if one is available) as a public record.

(3) Evaluation of properties within historic districts: Individual properties within the historic districts shall be classified as:

- a. Historic (more than fifty (50) years old).**
- b. Non-historic (less than fifty (50) years old yet possessing architectural character).**
- c. Intrusions (structures less than fifty (50) years old which do not contribute to the historical character of the district).**

(4) Affirmation of existing zoning: This article is not a use ordinance, and local zoning laws remain in effect until modified by the board of commissioners.

(c) Designation of a Landmark:

(1) Criteria for selection of landmarks: An historic landmark is a structure, site work of art, including adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the county, state, or region, for one (1) or more of the following reasons:

- a. It is an outstanding example of 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 culture significance to the county, the state or region.**

(2) **Boundary description:** Boundaries shall be clearly defined for individual properties on tax maps and located on the official zoning map.

(d) **General Matters Affecting Designation of Both Historic Districts and Landmarks:**

(1) **Application for historic District or landmark:**

a. **Historic district:** An historic society, neighborhood, association, or group of property owners may apply for designation.

b. **Landmark structure:** An historical society or property owner may apply for designation.

(2) **Required public hearings:** The commission and the board of commissioners shall hold a public hearing on the proposed ordinance for designation. Notice of the hearing shall be published in at least two (2) consecutive issues in the legal organ of the county, as 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 less than ten (10) nor more than twenty (20) days prior to the 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 article.

(3) **Notification of property owner of proposed designation:** Any ordinance designating any property or district as historic shall describe each property to be designated, set forth the names of the owners of the designated property or properties, and require that a certificate of appropriateness be obtained from historic preservation commission prior to any material change in appearance of the designated property.

(4) **Requirements regarding district boundaries:** Any ordinance designating any property or district as historic shall require that the designated property or district be shown on the official zoning map and kept as a public record to provide notice of such a designation.

(5) **Notification of historic preservation section:** Prior to designating any property or district as historic, the commission must submit a report of the historic, cultural, architectural or aesthetic significance of each place, district, site, building/structure, or work of art, to the historic preservation section of the Georgia Department of Natural Resources; thirty (30) days will be allowed to prepare written comments;

(6) **Ordinance for designation announcement:** A decision to accept or deny the ordinance for designation shall be made within fifteen (15) days following the public hearing and shall be in the form of a resolution of the board of commissioners.

(7) **Notification of adoption of a ordinance for designation:** Within thirty (30) days immediately following the adoption of the ordinance for designation, the owner and occupants of each structures, site or work of art, located within a designated historic district shall be given written notification of such historic district designations by the board of commissioners; which notice shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material changes in appearance of the historic property designated or within the historic district designated.

(8) **Notification of other agencies regarding designation:** The commission shall notify all necessary agencies within the county of the ordinance for designation, including the local historic organization.

(9) **Moratorium on applications for alteration or demolition of which 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.

(10) **Authority to amend or rescind designation:** The commission has the authority to amend and or rescind the designation if necessary.

4. APPLICATION TO PRESERVATION COMMISSION FOR CERTIFICATE OF APPROPRIATENESS.

(a) **Approval of Alterations of New Construction in Historic Districts or Involving Landmark:** After the designation by ordinance of an historic property or of an historic district, no materials change on the appearance of such historic property, or of a structure, site or work of art within such historic district, shall be made or 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.

(b) **Approval of New Construction Within Designated Districts:** The commission shall issue certificates of appropriateness to new structures constructed within designated historic districts. These structures shall conform in design, scale, building materials, setback, and landscaping to the character of the district specified in the commission's design guidelines.

(c) **Guidelines and Criteria for Certificates of Appropriateness:** When considering applications for certificates of appropriateness to existing buildings, the secretary of the interior's "Standards of Rehabilitation" shall be used as a guideline along with any other criteria adopted by the commission.

(d) **Submission of Plans to Commission:** An application for certificate of appropriateness shall be accompanied by such drawings, photographs, or plans as may be required by the commission.

(e) **Acceptable Commission Reaction to Application for Certificate of Appropriateness:**

(1) 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 commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design arrangements, texture and material of the architectural features involved, and the relationship thereof to the exterior architectural style, and pertinent features of the other structures in the immediate neighborhood.

(2) The commission shall deny a certificate of appropriateness if it finds that the proposed material change (s) in appearance would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district.

(f) Public Hearings on Applications for Certificates of Appropriateness, notice and Right to Be Heard: At least seven (7) days prior to a review of the certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give 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.

(g) Interior Alterations: In its review of application for certificate of appropriateness, the commission shall not consider interior arrangements or use having any effect on exterior architectural features.

(h) Technical Advice: When dealing with difficult technical questions, the commission shall have the power to seek expert advice; however, no financial commitments may be made on behalf of the county without approval from the board of commissioners.

(i) 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 not more than forty-five (45) days after the filing thereof by the owner or occupant of an historic property, or of a structure, site or work of art located within an historic district. Evidence of approval shall be made by a certificate of appropriateness issued by the commission.

(2) Failure of the commission to act within said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed.

(j) Necessary Action to Be taken by Commission Upon rejection of Application for Certificate of Appropriateness:

(1) In the event that 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 materials 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 (if applicable) or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.

(k) Undue Hardship:

Where, by reason of unusual circumstances, the strict application of any provision of this article would result in the exceptional practical difficulty or undue 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 said provisions, or to interpret the meaning of said provisions, so as to relieve such hardship or difficulty; 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 preserved, conserved and substantial justice done. In granting variance, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgement, best fulfill the purpose of this article. An undue hardship shall be a situation not of the person's own making, which is (a): a problem unique to a specific property or (b): in order to comply with this article, the person will conflict with another ordinance of the county or city.

(l) Requirements of Conformance with Certificate of Appropriateness:

Work not in accordance with an issued certificate of appropriateness shall be halted before it is completed, and the work shall be rectified to come in conformity with the certificate of appropriateness.

(m) Certificate of Appropriateness Void If Construction Not Commenced: A certificate of appropriateness shall become void unless construction commences within six (6) months of issuance. Certification of appropriateness shall be issued for a period of eighteen (18) months and are renewable.

(n) Recording of 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.

(o) **Acquisition of Property:** The commission may, where such action is authorized by the local governing authority and is necessary or appropriate for the preservation of a unique historic property, enter negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise, of the property or any interest therein.

(p) **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 board of commissioners; the appeal must be applied for within fifteen (15) days after the notification is sent. The county may approve, modify, or reject the determination made by the commission if the governing body finds that the commission abused its discretion in reaching the decision. Appeals from decisions of the board of commissioners made pursuant to the Georgia Historic Preservation Act may be taken to the superior court of the county, in the manner provided by law.

5. DEMOLITION OR RELOCATION APPLICATIONS.

(a) **Authority to Comment on Demolition Permit Applications:** The commission shall have the authority to comment on any request for a permit to demolish or relocate a structure within a historic district or classified as an historic landmark.

(b) **Actions Acceptable in Reaction to Application for Demolition or Relocation Permit:** The commission shall have the authority to delay, or merely comment on, demolition or relocation permits within its jurisdiction.

(c) **Consideration of Pre-demolition Plans:** A public hearing shall be scheduled for each application for demolition that is challenged by the commission prior to issuance of the permit.

(d) **Consideration of Post-demolition Plans:** The commission should consider, when reviewing demolition permits, plans for the building that would replace the structure.

(e) **Demolition or Relocation Criteria:** Upon receipt of an application for a certificate of appropriateness for demolition or relocation, the commission shall decide, supported by a written report, whether one (1) or more of the following criteria are met:

(1) The structure is of such interest or quality that it would meet national, state, or local criteria for designation as an historic or architectural landmark.

(2) The structure is of such an unusual or uncommon design, texture, or material that it could not be reproduced or be reproduced only with great difficulty and expense.

(3) Retention of the structure would aid in preserving and protecting a structure which meets criteria (1.) or (2.) herein above.

6. MAINTENANCE OF HISTORIC PROPERTY

(a) Ordinary Repair: Ordinary maintenance or repair of any exterior architectural feature in or on an historic property that does not involve a material change in design, material or outer appearance thereof is excluded from review.

(b) Conformity to Existing Building and Other Codes: Nothing in this article shall be construed as to exempt property owners or property from complying with existing county building codes or any other existing county ordinances, or regulations, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. This article is cumulative to other county ordinances and regulations.

7. PENALTY PROVISIONS.

Violations of any provision of this article may be enjoined by the appropriate action filled in the superior court of the appropriate jurisdiction, upon application for the same by the commission of the county, Violations of any provisions of this article may also be punished to the maximum extent allowable by law for violation of county ordinances, the same declared to be misdemeanor offenses.

8. DEFINITIONS.

To this article, the following terms shall have the following meanings:

(1) Board of Commissioners means the governing body of Fannin County.

(2) 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.

(3) Commission means the Fannin County Historic Preservation Commission created by this article.

(4) Exterior Architectural Features means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind or texture of the building materials and the type and style of all

or windows, doors, signs, and other appurtenant architectural fixtures, features, details, elements relative to the foregoing.

(5) **Exterior Environmental Features** means all those aspects of the landscape or the development of the site which affect the historical character of the property.

(6) **Historic District** means a geographically definable area which contains structures, sites, works of art or a combination thereof which exhibits a special historical, architectural, or environmental character as designated by the board of commissioners.

(7) **Material change in Appearance** means a change that will affect either the exterior architectural or environmental features of an historic property or any structure, site, or work of art within an historic district, and may include any, one (1) or more of the following:

- a. A reconstruction or alteration of the size, shape, or façade of an 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.
- e. The erection, alteration, restoration, or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

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