



DeKalb County Code – Chapter 13.5
Historic Preservation



Contents

Sec. 13.5-1.	Purpose.
Sec. 13.5-2.	Definitions.
Sec. 13.5-3.	Historic preservation commission-Creation and appointment.
Sec. 13.5-4.	Same—Powers and duties.
Sec. 13.5-5.	Assistance by county.
Sec. 13.5-6.	Bylaws.
Sec. 13.5-7.	Designations.
Sec. 13.5-8.	Certificate of Appropriateness.
Sec. 13.5-9.	Acquisitions.
Sec. 13.5-10.	Failure to maintain historic property.
Sec. 13.5-11.	Exceptions.
Sec. 13.5-12.	Application fees.
Sec. 13.5-13.	Penalties.
Sec. 13.5-14.	Severability.
Sec. 13.5-15.	Repeal.

Sec. 13.5-1. Purpose

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

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;

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 Board of Commissioners of DeKalb County 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, landscape features and works of art having special historical, cultural or aesthetic interest or value, in accordance with the provisions of this Ordinance.

Sec. 13.5-2. Definitions

"Application for Designation" - means a formal request in writing in a form specified by the Historic Preservation Commission that the commission consider a property or district for possible designation as a historic property or historic district.



DeKalb County Code – Chapter 13.5 HISTORIC PRESERVATION

"Certificate of Appropriateness" - means a document evidencing approval by the Historic Preservation Commission of an application to make material change in the appearance of a designated historic property or of a property located within a designated historic district.

"Designation" - means a decision by the governing authority of DeKalb County to designate a property or district as a "historic property" or as a "historic district" and thereafter prohibit all material change in appearance of such property or within such district prior to the issuance of a certificate of appropriateness by the preservation commission of DeKalb County.

"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 material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

"Exterior Environmental Features" - means all those aspects of the landscape or the development of a site which affect the historical character of the property.

"Governing Authority" - means the Chief Executive Officer and Board of Commissioners of DeKalb County.

"Historic District" - means a geographically definable area designated by the governing authority as a historic district pursuant to the criteria established in this Ordinance.

"Historic Property" - means an individual building, structure, site, object or work of art including the adjacent area necessary for the proper appreciation thereof designated by the governing authority as a historic property pursuant to the criteria established in 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, landscape feature or work of art 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;



DeKalb County Code – Chapter 13.5
HISTORIC PRESERVATION

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 building or other structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

"Ordinance of Designation" - means an ordinance formally proposed by the Historic Preservation Commission for consideration by the Governing Authority after the Commission has studied a proposed historic property or historic district and determined that they appear to meet the criteria for designation established in the ordinance.

"Person" - includes any natural person or corporation.

"Preservation Commission" - means the DeKalb County Historic Preservation Commission hereby created.

Sec. 13.5-3 Historic Preservation Commission; Creation and Appointment

There is created a commission whose title shall be "DeKalb County Historic Preservation Commission" (hereinafter "preservation commission"). The preservation commission shall consist of seven members, each of whom shall serve a maximum of two consecutive three-year terms. All members shall be residents of DeKalb County for at least one year prior to taking office and shall be persons who have demonstrated special interest, experience, or education in the preservation of historic resources, history, or architecture. At least a majority of members shall be licensed architects, landscape architects, or interior designers or professionals in the fields of history, architectural history, planning or archaeology.

When appointing preservation commission members, the governing authority shall take such action as may reasonably be required to inform county residents that an opening exists on the preservation commission, including the publication of a notice in the principle newspaper of general circulation in DeKalb County. The governing authority shall accept applications from interested individuals. Acting as a committee of the whole chaired by the Chief Executive Officer, the Board of Commissioners shall review the applications, interview applicants, and recommend a short list of potential candidates to the Chief Executive Officer. The Chief Executive Officer shall nominate individuals for confirmation by the Board of Commissioners. Should a member of the preservation commission be unable to complete a term of office, the governing authority shall fill the vacancy for the remainder of the unexpired term in the same manner as making initial appointments. An individual appointed to serve the remainder of an unexpired term shall be eligible to be reappointed for an additional consecutive three-year term.



DeKalb County Code – Chapter 13.5 HISTORIC PRESERVATION

In order to achieve staggered terms, initial appointments shall be determined by lottery as follows: two members for one year; two members for two years; and three members for three years.

Members shall serve until their successors are appointed and qualified. Members of the preservation commission shall serve without compensation but may be reimbursed for reasonable expenses.

Sec. 13.5-4. Powers and Duties

The preservation commission shall:

- (1) Prepare and maintain an inventory of all properties within its jurisdiction which have previously been placed on the National Register of Historic Place or The Georgia Register of Historic Places or which otherwise have the potential for designation as historic property;
- (2) Recommend to the governing authority specific places, districts, sites, buildings, structures, objects 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 Ordinance and O.C.G.A. Section 44-10-28;
- (4) Recommend to the governing authority that the designation of any place, district, site, building, structure, object or work or art as a historic property or as a historic district be amended, revoked or removed;
- (5) Restore or preserve any historic properties acquired by the county, with the approval of the governing authority;
- (6) Recommend to the governing authority the acquisition by the county of facade easements and conservation easements in accordance with the provisions of state and federal law;
- (7) Conduct educational programs on historic properties located within DeKalb County and on general historic preservation topics;
- (8) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts or other persons, as the governing authority or the preservation commission may itself, from time to time, deem necessary or appropriate for the purpose of preserving historic resources;
- (9) Seek out local, state, federal, and private funds for historic preservation, and make recommendations to the governing authority concerning the most appropriate uses of any funds acquired;



DeKalb County Code – Chapter 13.5 HISTORIC PRESERVATION

- (10) Submit to the Office of Historic Preservation of the Georgia Department of Natural Resources a list of designated historic properties and historic districts;
- (11) Participate in private, state and federal historic preservation programs and, with the consent of the governing authority, enter into agreements to do the same.
- (12) Review and make comments to the State Office of Historic Preservation concerning the nomination of properties within its jurisdiction to the National Register of Historic Places or the Georgia Register of Historic Places.

Sec. 13.5-5. Assistance by County

The governing authority shall provide technical and clerical assistance as the preservation commission may require and shall maintain permanent and complete records of the activities of the preservation commission.

Sec. 13.5-6. Bylaws

The preservation commission shall adopt rules and procedures, such as bylaws and design guidelines, for the transaction of its business and for consideration of applications for designations and certificates of appropriateness. The preservation commission shall have the prerogative to adopt reasonable rules and standards without amendment to this Ordinance or the vote of the governing authority. The preservation commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The preservation commission will meet at least monthly unless the chair determines that insufficient business warrants holding a meeting, in which case the preservation commission shall meet the following month. A quorum shall consist of a majority of the members.

The preservation commission shall elect a chair and such other officers as it deems appropriate from among its members. Officers shall serve one-year terms and shall be eligible for reelection. The preservation commission shall elect its initial officers at the first meeting following their appointment and thereafter in January of each year.

Sec. 13.5-7. Designations

Designation of places, districts, sites, buildings, structures, objects, or works of art or historic properties or districts shall be by ordinance adopted by the governing authority, which shall be subject to the following requirements:

- (1) Studies

The governing authority, an historical society, neighborhood organization, property owner(s) or resident(s), may request that the preservation commission



DeKalb County Code – Chapter 13.5

HISTORIC PRESERVATION

initiate studies of individual properties or districts to determine whether they meet the criteria specified in this section of designation as historic properties or historic districts. The preservation commission may also initiate such a study or studies on its own initiative based on a review of the county's historic resources. Upon determining that such recommended properties or districts meet the criteria for designation, the preservation commission may submit an ordinance for designation to the governing authority in accordance with the provisions of this section.

(2) Reports

The preservation Commission shall prepare a report prior to submitting an ordinance for designation to the governing authority. The report shall contain, as a minimum:

- a. a physical description of the property(ies) and/or district(s) proposed for designation;
- b. a statement of the historical, cultural, architectural and/or aesthetic significance of the same;
- c. a map showing district boundaries and classification (e.g. - historic, non-historic, intrusive and other significant categories) of individual properties therein, or showing boundaries of individual historic properties;
- d. a statement justifying district or individual property boundaries; and
- e. representative photographs.

These reports shall be used to educate the community and to provide a permanent record of the designation.

(3) Criteria

The preservation commission shall consider, but not be limited to, the following criteria when considering recommendations to the governing authority for designation of historic properties or historic districts.

- a. Historic Properties: Whether they:
 1. are an outstanding example of a structure representative of its era;
 2. are one of the few remaining examples of past architectural style;
 3. are a place or structure associated with an event or persons of historic or cultural significance to DeKalb county, the State of Georgia , or the nation;
 4. are a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the county, state or nation; or



DeKalb County Code – Chapter 13.5
HISTORIC PRESERVATION

5. are currently on or have been declared eligible by the appropriate authorities for listing on the National Register of Historic Places or Georgia Register of Historic Places.

b. Historic Districts: Whether they:

1. have special character or special historic or aesthetic value or interest;

2. represent one or more periods, styles or types of architecture typical of one or more eras in the history of the county, state or nation;

3. cause such area, by reason of such factors, to constitute a visibly perceptible section of the county; or

4. are currently on or have been declared eligible by the appropriate authorities for listing on the National Register of Historic Places or Georgia Register of Historic Places.

(4) Notice to State

At least thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic and at least fifteen (15) days prior to the public hearing for such designation, the preservation commission must submit a report to the Office of Historic Preservation of the Georgia Department of Natural Resources or its successor for review and comment, as required by O.C.G.A. Section 44-10-26(b).

(5) Ordinance

Any ordinance designating any property as historic property or any district as a historic district shall:

a. require that the designated property or district be shown on the official zoning map of the county and be kept by the county as a public record to provide notice of such designation in addition to other notice requirements specified by this section;

b. describe each property to be designated, set forth the name or names of the owner or owners of the property and require that a certificate of appropriateness be obtained from the preservation commission prior to any material change in appearance of the designated property; and

c. include a description of the boundaries of such district, list each property located therein, set forth the name or names of the owner or owners of each such property and require that a certificate of appropriateness be obtained from the



DeKalb County Code – Chapter 13.5
HISTORIC PRESERVATION

preservation commission prior to any material change in appearance of any structure, site or work of art located within the designated historic district.

(6) Notice and Hearing

The preservation commission and the governing authority 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 (3) issues of the principal newspaper of general circulation within DeKalb County and written notice of the hearing shall be mailed 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 notice mailed to the last know owner of the property shown on the DeKalb tax records and a notice mailed to the address of the property on which residences or business are located to the attention of the occupant shall constitute legal notification to the owner and occupant under this Ordinance.

This published notice shall state the time, date, place and purpose of the hearing. This published notice shall also include the location or boundaries of the property or properties, the existing zoning classification and historic designation, if any, and a statement that the property could be proposed for historic designation during the proposal process.

The preservation commission shall give notification of the proposal by mail to all abutting property owners as shown by DeKalb County tax records. Such notification shall be mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing and shall include a description of the application and the date, time and place of the public hearing.

The commission shall cause to be erected a sign or signs giving notification of the date, time and place of a public hearing to consider the proposed historic designation. In the case of an historic property, one sign shall be placed on the property visible from a public street. In the case of a historic district, signs shall be placed at each point where the district boundary intersects a public street.

(7) Recommendation to Governing Authority

A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the preservation commission within fifteen (15) days following the public hearing and shall be in the form of a resolution to the governing authority.

Following receipt of the preservation commission's recommendation, the governing authority may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

(8) Final Notice



Within thirty (30) days following a designation by the governing authority, the owners and occupants of each designated historic property, and each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the governing authority. The notice shall apprise 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) Moratorium

If an ordinance for designation is being considered, the preservation commission shall notify the development division of the DeKalb County public works department and no permit of any kind shall be issued for work which would constitute a material change in the appearance of a structure, site, landscape or piece of art within the designated area until the proposed ordinance is enacted or rejected by the governing authority. The preservation commission must propose an ordinance of designation to the governing authority no more than sixty (60) days after the development division denies a building permit based on the moratorium.

Sec. 13.5-8. Certificate of Appropriateness

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 any building, structure, site or work of art within such historic district shall be made or be permitted to be made by the owner or authorized agent unless or until the application for a certificate of appropriateness has been submitted and approved by the preservation commission.

(1) Application for Certificate of Appropriateness

Owners of historic property or of property in a historic district, or their duly authorized agents, must make application for a certificate of appropriateness procedures promulgated by the preservation commission for such purpose. The Georgia Department of Transportation and contractors performing work funded by the Georgia Department of Transportation are exempt from provisions of this ordinance. Local governments are also exempt from obtaining certificates of appropriateness but shall notify the preservation commission at least forty-five (45) days prior the beginning or undertaking any work that would otherwise require a certificate of appropriateness, so as to allow the preservation commission an opportunity to comment.

All applications for certificates of appropriateness shall be accompanied by drawings, photographs, plans and documentation required by the preservation commission. Written authorization of the property owner shall be required if the applicant is not the owner of record.



(2) Public Notice

Prior to reviewing an application for a 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 materially by the application and shall give the applicant and such owners an opportunity to be heard. In cases where the preservation commission deems it necessary or upon the written request of the abutting property owner, the preservation commission shall hold a public hearing concerning the application. A request for public hearing must be made by the applicant at the time of filing the application or by abutting property owners within three (3) days of receipt of notice that an application is pending before the commission. Written notice of the hearing shall be mailed by the preservation commission to all owners and occupants of the proposed property and all abutting property owners as shown by the DeKalb County tax records not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing.

The preservation commission shall give the property owner or applicant an opportunity to be heard at the certificate of appropriateness hearing, as well as other parties expressing an interest in the issuance of such certificate.

The preservation commission shall approve or reject an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of an historic property or building, structure, site or work of art located within a historic district. Evidence of approval shall be by certificate of appropriateness issued by the preservation commission. Failure of the preservation commission to act within said forty-five (45) days shall constitute approval and no other evidence of approval shall be needed unless the owner or occupant of the property for which the certificate is requested agrees in writing to a delay. During such delay, negotiations may occur between the preservation commission and the owner or occupant to resolve any questions or issues regarding the application.

(3) Review of Applications

When reviewing applications for certificates of appropriateness, the preservation commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance; architectural style; scale, height, setback, landscaping; general design; arrangement, texture and materials of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other properties in the immediate neighborhood. When considering applications for existing buildings, the Secretary of the Interior's *Standards for Historic Preservation Projects*, including the *Standards for Rehabilitation* shall be used as a guideline.

(4) Interior Changes

In its review of applications for certificates of appropriateness, the preservation commission shall not consider interior arrangements or use having no



DeKalb County Code – Chapter 13.5
HISTORIC PRESERVATION

effect on exterior architectural features. The preservation commission may delegate the responsibility for determining the extent of interior change and its effect on the exterior appearance to the planning director.

(5) Demolition

A decision may be made by the preservation commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites or objects.

(6) Ordinary Maintenance and 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.

(7) Approval

The preservation commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in 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. The preservation commission may approve the application as proposed, approve it with modifications, or reject the application.

(8) Final Action

Evidence of approval shall be by certificate of appropriateness issued by the preservation commission. Notice of the issuance or denial of a certificate of appropriateness shall be sent to the applicant and all other persons who have filed a written request for such notice with the preservation commission.

In the event the preservation 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 preservation commission may suggest alternative courses of action if it disapproves of the application submitted. The applicant may make modifications to the plans and may resubmit the application at any time after doing so.

In cases where the application covers a material change in the appearance of a structure, which would require the issuance of a permit of any kind, the rejection of the application for a certificate of appropriateness by the preservation commission shall be binding upon the development division of the DeKalb County public works department and no permit shall be issued.

All work performed pursuant to a certificate of appropriateness issued pursuant hereto shall conform to the requirements of such certificate. In the event



DeKalb County Code – Chapter 13.5 HISTORIC PRESERVATION

work is performed which is not in accordance with such certificate the preservation commission shall issue a cease and desist order and all work shall cease.

A certificate of appropriateness shall become void unless construction is commenced within twelve (12) months of the date of issuance. Certificates of appropriateness shall be issued for a period of 18 months and are not renewable.

(9) Records

The preservation commission shall keep a public record of all applications for certificates of appropriateness and of all the preservation commission's proceedings in connection with such applications. Such records shall be maintained in the offices of DeKalb County government.

(10) Appeals

Any person adversely affected by any determination made by the preservation commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the governing authority. Any appeal must be filed within 15 days after the issuance of the determination or, in the case of a failure of the preservation commission to act, within 15 days of the expiration of the 45-day period allowed for preservation commission action. The governing authority may approve the determination made by the preservation commission, or it may modify or reject the determination if it finds that the preservation commission abused its discretion in reaching its decision. Appeals from decisions of the governing authority may be made by certiorari to the Superior Court of DeKalb County as in the case of other ordinance violations.

The governing authority is authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designation historic property or historic district, except those changes made in compliance with the provisions of this Ordinance.

Sec. 13.5-9. Acquisitions

The preservation commission may, where such action is authorized by the governing authority, enter into negotiations with the owners of historic properties or of properties within historic districts for the acquisition by gift or purchase of ownership of the property or any interest therein. Final approval and ownership of these properties would be by the governing authority.

Sec. 13.5-10. Failure to Maintain Historic Property

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 preservation commission shall monitor the condition of



DeKalb County Code – Chapter 13.5 HISTORIC PRESERVATION

historic properties and existing buildings, structures, sites and works of art located in historic districts to determine if they are being allowed to deteriorate by neglect.

If the preservation commission determines a failure to provide ordinary maintenance and repair, the preservation 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 shall have thirty (30) days to initiate the appropriate repairs.

In the event that efforts to correct the condition are not commenced within thirty (30) days, the owner shall be considered in violation of this ordinance and shall be subject to fines not to exceed \$1,000 for each day of violation. Alternatively, at the direction of the governing authority, the preservation commission 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 preservation commission.

Sec. 13.5-11. Exceptions

Where by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in exceptional practical difficulty or undue hardship upon any owner of any specific property; the preservation commission in passing upon applications shall have power to vary or modify strict adherence to said provisions or to interpret the meaning of said provision so as to relieve such difficulty or hardship; provided such variance, modification, or interpretation 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 and substantial justice done. In granting variations, the preservation commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance. An undue hardship shall be a situation beyond the control of the applicant, which is a problem unique to a specific property or in order to comply with this Ordinance, the person will violate another Ordinance of DeKalb County. The burden of demonstrating the existence of the hardship by a preponderance of evidence shall be with the applicant.

Sec. 13.5-12. Application Fees

Each application for a certificate of appropriateness shall be accompanied by a fee in an amount established by the governing authority, a copy of which will remain on file in the planning department, to partially defray the public expense in processing such application. The fee shall not be required for an application filed by the county.

Sec. 13.5-13. Penalties



DeKalb County Code – Chapter 13.5
HISTORIC PRESERVATION

Any person who does anything prohibited by the chapter as it exists or as it may hereafter be amended, or who fails to do anything required by this chapter as it now exists or as it may hereafter be amended, upon conviction of a violation, shall be subject to punishment as provided by law. Each day that this violation exists shall be deemed a separate offense.

Sec. 13.5-14. Severability

In the event that any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Sec. 13.5-15. Repeal of Conflicting Ordinances

This chapter is the Historic Preservation Ordinance of the DeKalb County, and all other conflicting ordinances or resolutions are hereby repealed.