

AN ORDINANCE

**AN ORDINANCE TO AMEND
THE CODE OF DEKALB COUNTY, GEORGIA,
CHAPTER 13.5 (HISTORIC PRESERVATION)
AND FOR OTHER PURPOSES.**

WHEREAS, the Governing Authority recognizes the historical, cultural and aesthetic heritage of DeKalb County as essential to the promotion of the health, prosperity; and

WHEREAS, the Historic Preservation Commission is vital to protecting the historical, cultural and aesthetic heritage of DeKalb County; and

WHEREAS, the Code of DeKalb County must be updated to ensure the Historic Preservation Commission is adequately staffed to continue its important mission, among other things;

NOW THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 13.5 of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

By amending sections 13.5-2, 13.5-3, 13.5-7, 13.5-8, 13.5-10, and 13.5-13 to read as follows:

ARTICLE III. SUBDIVISIONS

Sec. 13.5-2. Definitions.

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 this chapter to designate a property or district as historic.]~~

Commented [BBD1]: OCGA 44-10-26

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 currently or previously licensed architects, landscape architects, or interior designers or professionals in the fields of history, historic preservation, architectural history, planning or archaeology or have a degree in a relevant field of study.]~~

Commented [BBD2]: OCGA 44-10-24 requires that:

"A majority of the members of any such commission shall have demonstrated special interest, experience, or education in history or architecture."

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 planning director shall accept and conduct an initial review of applications for appointment to the preservation commission and submit a list of qualified applicants to the board of commissioners, who shall recommend a short list of candidates to the chief executive officer. The chief executive officer or designee shall nominate individuals for confirmation by the board of commissioners within thirty (30) days of receiving such recommendations from the board of commissioners.] 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 or designee shall nominate individuals for confirmation by the board of commissioners, as provided by law, within thirty (30) days of receiving recommendations from 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.~~

Commented [BBD3]: OCGA 44-10-24 authorizes the "local governing body" to make appointments.

Each member shall serve a maximum of two consecutive three year terms. For the purpose of ensuring staggered terms among the members of the preservation commission, the governing authority may appoint a member to a term of less than three years.

~~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.

Commented [BBD4]: *DeKalb County v. Buckler*, 288 Ga.App. 346 (2007) held that:

"Neither the Historic Preservation Act nor the DeKalb County ordinance provides that failure to have seven active members on the HPC invalidates an HPC decision. Both the ordinance and the by laws provide that members serve until their successors are appointed and qualified, and there is no evidence in the record that any missing members are incapable of serving."

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 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~~ **adopt** 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
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 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~~ **fewer** than ten (10) nor more than twenty (20) days prior to the date set for the public hearing. A notice mailed to the last known 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~~ **adopt**, modify or ~~withdraw~~ **reject** 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

Upon a vote by the preservation commission to accept an application for designation, the governing authority may enact a moratorium on land development permits, building permits, and other permits for work that would constitute a material change in the appearance of a property or any building, structure, site, object, landscape feature or piece-work of art within an area that is being considered for historic designation.— A moratorium imposed under this subsection shall be effective for no more than sixty (60) days from the date of enactment. ~~The 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.~~

(10) Inspections

Commented [BBD5]: This provision ensures compliance with U.S. Supreme Court precedent and other inspection provisions within the Code.

(a) Upon the issuance of a building permit or land development permit for any property or district designated as historic by ordinance, the planning director or designee may inspect such property to ensure compliance with this chapter.

(b) [The inspecting official may enter the property at reasonable times to conduct an inspection of the exterior of a building or structure. If access to the interior of a building or structure is required, prior to entry the official shall present credentials, state the reason for the inspection, and request entry. If the building is unoccupied, the official shall make reasonable efforts to locate any person having control of the property and request entry.

Commented [BBD6]: Clarifies scope of inspection authority

(c) If entry is refused or the official is unable to obtain consent, the official shall have recourse to every remedy provided by law to secure entry, including but not limited to an application to a magistrate judge or any court of competent jurisdiction for an administrative search warrant.

(d) An administrative search warrant may be issued where the person seeking the warrant establishes under oath or affirmation that the property to be inspected is to be inspected as part of a legally authorized program of inspection which includes that property, or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection.

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, object, landscape feature 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 an 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 on forms and according to 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 chapter. Local governments are also exempt from obtaining certificates of appropriateness but shall notify the preservation commission at least forty-five (45) days prior to 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 as required by the preservation commission. ~~Notarized~~ ~~A~~ 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 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 (i.e. any owner of adjoining property or owner of property whose property line is within ~~one thousand five hundred (1,500)~~ **two-hundred fifty (250)** feet of the applicant's property according to the DeKalb County tax records) 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 applicant or an 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 an abutting property owner within three (3) days of receipt of notice that an application is pending before the commission. Written notice of a public 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 DeKalbcounty tax records not less than ten (10) nor more than twenty (20) days prior to the date set for hearing of the application.

Commented [BBD7]: OCGA 44-12-28 provides that:

"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."

(3) *Review of applications.* When reviewing applications for certificates of appropriateness, the preservation commission shall consider, in addition to any other pertinent factors, 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~~ **Treatment of Historic Properties with Guideline for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings,** shall be used as a guideline.

Commented [BBD8]: Feb 11, 2018 edit by D. Cullison

(4) *Interior changes.* In its review of applications for certificates of appropriateness, the preservation commission shall not consider interior arrangements or uses having no 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 or his designee.

(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 a 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 deny the application. The preservation commission shall approve, approve with modifications or deny an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the applicant unless an extension is requested by the applicant and granted by the preservation commission. 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 a certificate of appropriateness shall be issued.

(8) *Final action.* The preservation commission's decision, whether to accept or reject an application shall be in writing. The written decision shall be signed by the chair, ~~or the vice-chair,~~ or a designee and must clearly set forth the reasons for the decision, including whether the guidelines have been met and specifically which factors, as set forth in section 13.5-8(3), were considered in reaching the decision. Approval of an application shall also result in the issuance of a certificate of appropriateness. 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. All work performed pursuant to a certificate of appropriateness shall conform to the requirements of such certificate and by other applicable laws. In the event work is performed which is not in accordance with such certificate or laws, the county 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 the issuance and completed within eighteen (18) months of the date of issuance. Certificates of appropriateness ~~shall be issued for a period of eighteen (18) months and~~ are not renewable.

(9) *Revised applications.* The preservation commission may suggest alternative courses of action if it denies the application submitted. The applicant may make modifications to the plans and may resubmit the application at any time after making such modifications as suggested by the preservation commission.

(10) *Prohibition on issuance of development permits.* In cases where the application covers a material change in the appearance of a property or structure, which would require the issuance of a permit of any kind, the denial of the application for a certificate of appropriateness shall be binding upon the county and no permit related to the rejection of the application for a certificate of appropriateness shall be issued by the county.

(11) *Official record.* 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 applications. Such

records shall be maintained by the planning director. In the event of an appeal to the governing authority, the official record of the preservation commission's decision shall consist of the application, any accompanying drawings, renderings or photographs, written comments from planning department staff, written comments of any participant at the hearing before the commission and the preservation commission's written decision. Such records shall be available for review in the planning department within ten (10) days of a final decision by the preservation commission on the certificate of appropriateness.

(12) *Appeal to the governing authority.* ~~Any person adversely affected by any decision made by the preservation commission relative to the issuance or denial of a certificate of appropriateness (i.e. ± adjoining property or owner of property whose property line is within one thousand five hundred (1,500) feet of the applicant's property according to the DeKalb County tax records)~~ **any decision made by the preservation commission** to the governing authority. The appeal shall be limited to a review of the record of the proceedings before the preservation commission. The standard of review shall be an abuse of discretion. An abuse of discretion exists where the record presented to the governing authority shows that the preservation commission exceeded the limits of its authority or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6 or that the preservation commission's decision was otherwise arbitrary and capricious. If the governing authority finds no abuse of discretion, then it may affirm the decision of the preservation commission. If the governing authority finds that the preservation commission abused its discretion in reaching a decision, then it may reverse the preservation commission's decision, or it may reverse the preservation commission's decision and remand the application to the preservation commission with direction. All appeals must comply with the procedures set forth below:

- a. Any appeal must be filed in writing with the clerk to the board of commissioners using an appeal form provided by the planning director, within fifteen (15) days after the date of issuance or denial of the certificate of appropriateness. The appellant shall also deliver copies of the appeal to the planning department and the county attorney.
- b. In the written appeal, the appellant must describe how the preservation commission's decision constitutes an abuse of discretion. Specifically, the appellant must, citing to the preservation commission's written decision, show at least one of the following: that the preservation commission exceeded the limits of its authority, or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or on the guidelines adopted by the preservation commission pursuant to section 13.5-6, or that the preservation commission's decision was otherwise arbitrary and capricious.
- c. In addition to the appeal form, the appellant may submit a written supplementary explanation in support of the appeal. The supplementary

explanation shall be submitted with the appeal. The supplementary explanation may not exceed three pages and must be typewritten and double-spaced using a twelve-point font with a one-inch margin on all four sides. The governing authority will not consider text in excess of the page limit set forth herein.

- d. Any adversely affected person may also submit a written supplementary explanation that must comply with all of the requirements set forth in Section 13.5-8(12)c, in support of, or in opposition to the appeal. All written supplementary explanations authorized by this subsection must be filed within five (5) days after the appeal is filed. Such written supplementary explanations must be filed with the clerk to the board of commissioners with copies to the planning director, and the county attorney.
- e. The planning department shall submit appeals of the decisions of the historic preservation commission to the governing authority for consideration at any of the board of commissioners' regularly scheduled meetings within ~~forty-five (45)~~ **sixty (60)** days of the issuance of the decision from the preservation commission.
- f. The agenda item shall set forth the standard of review to be used by the governing authority in deciding the appeal. The official record of the preservation commission's decision together with the appeal and all properly filed written supplemental explanations in support and in opposition to the appeal, will be attached to the governing authority's agenda item. The governing authority may not consider any written document that is not attached as the official record to the governing authority's agenda item for the appeal. The appellant and any person who has filed a statement in opposition to, or in support of the appeal may attend the meeting and may be called upon by any member of the governing authority to provide information or answer questions. There shall be no other public participation in the appeal.
- g. The governing authority shall render a decision on the appeal within ~~thirty (30)~~ **forty-five (45)** days of the first appearance of the appeal on the board of commissioners' agenda.
 - (1) *Appeals to Superior Court.* An appeal from a decision of the governing authority shall be made by a petition for writ of certiorari to the Superior Court of DeKalb County.]
 - (2) *Court action.* The governing authority is 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 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 district.

Commented [BBD9]: OCGA 44-10-28(j) provides:

"Appeals from decisions of the governing body made pursuant to this article may be taken to the superior court in the manner provided by law for appeals from a conviction for municipal or county ordinance violations."

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 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 or preservation staff determine a failure to provide ordinary maintenance and repair, the preservation staff shall notify Code Compliance, who 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 penalties as provided by Sec. 1-10 of this Code. ~~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

Commented [BBD10]: Sec 1-10 provides:

- (a) In this section "violation of this Code" means:
- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
 - (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.
- (c) Violations of this Code shall be handled as follows:
- (1) If a summons or citation is served by leaving a copy at the premises where an ordinance violation is alleged to have occurred, mailing a copy to the owner of the premises at the address of record maintained by the tax commissioner and tax assessor, and publishing notice as required by rule or regulation of the recorder's court, a fine not exceeding five hundred dollars (\$500.00) may be imposed. Any fine imposed shall be subject to immediate execution.
 - (2) If a summons, citation or accusation is personally served upon an accused, a fine not exceeding one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed one hundred twenty (120) days, or a combination thereof may be imposed. Any fine imposed shall be subject to immediate execution.
 - (3) The judge may probate [prorate] any part or all of any fine or jail time imposed pursuant to this section.
 - (4) For violation of a pretreatment standard or requirement adopted pursuant to the Federal Clean Water Act, the maximum fine shall be one thousand dollars (\$1,000.00) per day for each violation by an industrial user.
 - (5) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense. Notwithstanding the foregoing, attorneys shall not be punished under this section for failure to comply with chapter 15 of this Code.
- (d) The imposition of a fine pursuant to this section does not prevent revocation or suspension of any county -issued registration, business occupation tax certificate, license, permit or franchise. So long as a fine remains unpaid and outstanding, and not the subject of any appeal, an application for any county -issued registration, business occupation tax certificate, license, permit, franchise, variance, sketch plat, amendment to the comprehensive plan land use map, amendment to the official zoning map, rezoning, special administrative permit, or special land use permit may not be accepted by any county employee or issued by any county employee, official, board, commission or other county entity if such application relates to the person who owes the fine as reflected in the recorder's court records or the land on which the violation(s) has been shown to exist.
- (e) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

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

Violations of this chapter shall be punishable in accordance with Sec. 1-10 of the code as it now exists or as it may hereafter be amended. ~~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.

ADOPTED by the DeKalb County Board of Commissioners, this ____ day of _____, 2018.

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

DRAFT April 8~~11~~, 2019

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2018.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
And Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:

VIVIANE H. ERNSTES
County Attorney
DeKalb County, Georgia