

ORDINANCE 98-3

As Amended

HISTORIC PRESERVATION ORDINANCE

AN ORDINANCE TO ESTABLISH A HISTORIC PRESERVATION COMMISSION IN THE CITY OF DAHLONEGA; TO PROVIDE FOR DESIGNATION OF HISTORIC PROPERTIES OR HISTORIC DISTRICTS; TO PROVIDE FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS; TO PROVIDE FOR AN APPEALS PROCEDURE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE DAHLONEGA CITY COUNCIL, OF DAHLONEGA, GEORGIA.

Short Title and Purpose

A. Short Title.

This Ordinance shall be know as and may be cited as the “Historic Preservation Ordinance” of Dahlonega, Georgia.

B. Purpose.

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Dahlonega, Georgia 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 maintain 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 designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same;

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

Definitions

C. “Building” - A building is a structure, either temporary or permanent, above or below ground, having a roof or other covering, and designed, built, or used as a shelter or enclosure for persons, animals, or property of any kind, such as a house, barn, church, hotel, or similar structure, and including tents, awnings, or vehicles used for purposes of a building. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

D. “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.

E. “Exterior Architectural Features” - Means the architectural style, general design and general arrangement of the exterior of a building, structure or object, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural Fixtures, features, details or elements relative to the foregoing.

F. “Exterior Environmental Features” - Means all those aspects of the landscape or the development of a site which affect the historical character of the property.

G. “Historic District” - Means a geographically definable area, possessing a significant concentration, linkage, or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A Historic District shall further mean an area designated by the Dahlonaga City Council as a Historic District pursuant to the criteria established in Section IV.C of this Ordinance.

H. “Historic Property” - Means an individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the Dahlonaga City Council as a historic property pursuant to the criteria established in Section IV.D of this Ordinance.

I. “Material Change in Appearance” - Means a change that will affect either the exterior architectural or environmental features of a historic property or any building, structure, site, object, or landscape feature within a historic district, such as:

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

J. “Object” - An object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

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

L. "Structure" - A structure is anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground, not including utility poles.

## Section II.

### Creation of a Historic Preservation Commission

#### A. Creation of the Commission.

There is hereby created a commission whose title shall be "DAHLONEGA HISTORIC PRESERVATION COMMISSION" (hereinafter "Commission").

#### B. Commission Position within the City of Dahlonega.

The Preservation Commission shall be part of the planning functions of the City of Dahlonega.

#### C. Commission Members: Number. Appointment. Terms and Compensation.

The Commission shall consist of seven (7) members appointed by the Mayor and ratified by the City Council. All members shall be residents of the City of Dahlonega and shall be persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources. In addition, two (2) ex-officio members may be appointed to the Commission who own property in the city limits, but who are not residents of the City of Dahlonega.

To the extent available in the City of Dahlonega, at least three (3) members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or related professions and at least one (1) member shall be appointed from among professionals in the disciplines of building construction or real property appraisal.

The members of the Dahlonega Historical Commission at the time this Ordinance takes effect shall be the initial members of the Dahlonega Historic Preservation Commission to be appointed by the Mayor and City Council and shall hold office for the balance of their terms then remaining as members of such commission, and their successors shall be appointed according to the requirements of this Ordinance by the Mayor and ratified by the City Council.

Members and ex-officio members shall serve three-year terms. Members may not serve more than two (2) consecutive terms. Members shall not receive a salary, although they may be reimbursed for expenses with the approval of the Dahlonega City Council.

#### D. Statement of the Commission's Powers:

The Preservation Commission shall be authorized to:

1. Prepare and maintain an inventory of all property within the City of Dahlonega having the potential for designation as historic property;

2. Recommend to the Dahlonega City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
3. Review applications for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Ordinance;
4. Recommend to the Dahlonega City Council that the designation of any district, site, building, structure or object as a historic property or as a historic district be revoked or removed;
5. Restore or preserve any historic properties acquired by the City of Dahlonega;
6. Promote the acquisition by the City of Dahlonega of facade easements and conservation easements, as appropriate, in accordance with the provisions of the *Georgia Uniform Conservation Easement Act of 1992* (O.C.G.A., Section 44-10.1 through 5);
7. Conduct educational programs on historic properties located within the City of Dahlonega and on general historic preservation activities;
8. Make such investigations and studies of matters relating to historic preservation including consultation with historic preservation experts or the Dahlonega City Council, or as the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
9. Seek out local, state, federal or private funds for historic preservation, and make recommendations to the Dahlonega City Council concerning the most appropriate uses of any funds acquired;
10. Submit to the Historic Preservation Division of the Department of Natural Resources a list of historic properties or historic districts designated;
11. Perform historic preservation activities as the official agency of the Dahlonega historic preservation program;
12. Employ persons, if necessary, to carry out the responsibilities of the Commission with approval of the Dahlonega City Council;
13. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The Preservation Commission shall not obligate the City of Dahlonega without prior consent;
14. Review and make comments to the Historic Preservation Division of the Department of Natural Resources concerning the nomination of properties within the City of Dahlonega to the National Register of Historic Places; and
15. Participate in private, state and federal historic preservation programs and with the consent of the Dahlonega City Council enter into agreements to do the same.

E. Commission's Power to Adopt Rules and Standards:

The Preservation Commission shall adopt rules and standards for the transaction of its business and for consideration of applications for designations and Certificates of Appropriateness, such as By-Laws, removal of membership provisions, and design guidelines and criteria. The Preservation Commission shall have the flexibility to adopt rules and standards without amendment to this Ordinance. The Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The Commission shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of these members. All rules shall be reviewed by the Dahlonega City Council before going into use.

F. Conflict of Interest:

The Commission shall be subject to all conflict of interest laws set forth in Georgia statutes and in the City of Dahlonega Charter.

G. Commission's Authority to Receive Funding from Various Sources:

The Commission shall have the authority to accept donations and shall ensure that these funds do not displace appropriated governmental funds.

H. Records of Commission Meetings:

A public record shall be kept of the Commission's resolutions, proceedings and actions. Reports to the Dahlonega City Council will also be made on a timely basis.

Section III.

Recommendation & Designation of Historic Districts and Properties

A. Historic Districts Designated.

The following historic preservation districts are hereby designated by the Dahlonega City Council and are subject to all provisions of this Ordinance, the Zoning Ordinance and all other applicable ordinances, rules, regulations, design guidelines or other acts of the City Council or the Historic Preservation Commission:

1. Downtown Historic District:

a. Boundaries. The Downtown Historic District Boundaries are designated by the Dahlonega City Council as the boundaries of the B-3 Historical Business District and the CBD Central Business District under the Dahlonega Zoning Ordinance.

b. Boundary Amendments. It is the intent of this Ordinance that the boundaries of the Downtown Historic District be amended automatically upon the rezoning approval of any property adjacent to or across the street from the Downtown Historic District to the B-3 or CBD zoning districts, or upon the rezoning approval of any property within the Downtown Historic District to any zoning district other than B-3 or CBD.

B. Preliminary Research by Commission:

1. Commission's Mandate to Conduct a Survey of Local Historical Resources: The Commission shall compile and collect information and conduct surveys of historic resources within the City of Dahlonega. Records shall be stored in the City of Dahlonega storage area.

2. Commission's Power to Recommend Districts and Buildings to the Dahlonega City Council for Designation: The Commission shall present to the Dahlonega City Council recommendations for historic districts and properties.

3. Commission's Documentation of Proposed Designation: Prior to the Commission's recommendation of a historic district or historic property to the Dahlonega City Council for designation, the Commission shall prepare a Report for Nomination consisting of:

- a. a physical description;
- b. a statement of the historical, cultural, architectural and/or aesthetic significance;
- c. a map showing district boundaries and classification (i.e. contributing, non-contributing) of individual properties therein, or showing boundaries of individual historic properties;
- d. a statement justifying district or individual property boundaries; and
- e. representative photographs.

C. Criteria for Designation of a Historic District:

1. Criteria for Selection of Historic Districts: A historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, which:

- a. have special character or special historic/aesthetic value or interest;
- b. represent one or more periods, styles or types of architecture typical of one or more eras in the history of the municipality, county, state or region; and
- c. cause such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.

2. Evaluation of Properties within Historic Districts: Individual properties within historic districts shall be classified as:

- a. contributing (contributes to the district by meeting the criteria of Paragraph C.1. of this Section IV);
- b. non-contributing (does not contribute to the district).

D. Criteria for Designation of a Historic Property:

1. Criteria for Selection of Historic Properties: A historic property is a building, structure, site, or object; including the adjacent area necessary for the proper appreciation or use thereof,

deemed worthy of preservation by reason of value to the Nation, the State of Georgia, or the City of Dahlonega for one of the following reasons:

- a. it is an outstanding example of a structure representative of its era;
- b. it is one of the few remaining examples of a past architectural style or type;
- c. it is a place or structure associated with an event or persons of historic or cultural significance to the City of Dahlonega, State of Georgia, or the region; or
- d. it is the site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the municipality, county, state or region.

E. Requirement for Adopting an Ordinance for the Designation of New Historic Districts and Historic Properties:

The following applies to the creation of any historic district or historic property not previously designated by this Historic Preservation Ordinance or other ordinance of the City of Dahlonega.

1. Application for Designation of New Historic Districts or Property: Designations may be proposed by the Dahlonega City Council, the Commission, or:

- a. for historic districts - a historical society, neighborhood association or group of property owners may apply to the Commission for designation;
- b. for historic properties - a historical society, neighborhood association or property owner may apply to the Commission for designation.

2. Required Components of a Designation Ordinance: Any ordinance designating any new property or district as historic shall:

- a. list each property by street address or tax parcel identifier in a proposed historic district or describe the proposed individual historic property;
- b. set forth the name(s) and mailing address(es) of the owner(s) of the designated property or properties as shown on the most recent City of Dahlonega tax digest;
- c. set forth the boundary of the historic property or district by general boundary description, reference to a tax parcel identifier, or as shown on a map or plat of the property or district;
- d. require that a Certificate of Appropriateness be obtained from the Commission prior to any material change in appearance of the designated property or of any property within a historic district; and
- e. require that the property or district be shown on the Official Zoning Map of the City of Dahlonega, Georgia and kept as a public record to provide notice of such designation.

3. Required Public Hearings: The Commission and the Dahlonega City Council shall hold a public hearing on any proposed ordinance for the designation of any new historic district or property. Notice of the hearing shall be published in at least three (3) consecutive issues in the principal newspaper of local circulation, and written notice of the hearing shall be mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing. A notice sent via the United States mail to the last-known owner of the property shown on the City of Dahlonega tax digest shall constitute legal notification to the owner and occupant under this ordinance.

4. Notification of Historic Preservation Division: No less than thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic, the commission must submit the report, required in Section IV.B.3, to the Historic Preservation Division of the Department of Natural Resources.

5. Recommendations on Proposed Designations: A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the Commission within fifteen (15) days following their Public Hearing and shall be in the form of a resolution to the Dahlonega City Council.

6. Dahlonega City Council Action on the Commission's Recommendation: Following receipt of the Commission recommendation, the Dahlonega City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

7. Notification of Adoption of Ordinance for Designation: Within thirty (30) days following the adoption of the ordinance for designation by the Dahlonega City Council, the owners of each designated historic property, and the owners of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the Dahlonega City Council, which notice shall apprise said owners 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, and require that each owner notify the occupants of their property if different from the owner of such requirement for a Certificate of Appropriateness. A notice sent via the United States mail to the last-known owner of the property shown on the City of Dahlonega tax digest and a notice sent via United States mail to the address of the property shall constitute legal notification under this ordinance.

8. Notification of Other Agencies Regarding Designation: The Commission shall notify all necessary agencies within the City of Dahlonega of the ordinance designation.

9. Moratorium on Applications for Alteration or Demolition While an 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 or properties.

F. Amendments to Boundaries of a Historic District or Historic Property.

Once a historic district or historic property has been designated by the City Council by this Historic Preservation Ordinance or other ordinance of the City of Dahlonega, its boundaries may be amended in accordance with the following procedures:

1. Historic Districts or Properties Designated by Zoning District(s):

For an area or property previously designated as a historic district or property by virtue of its zoning classification (such as being zoned B-3, Historic Business District, or CBD, Central Business District), the rezoning process shall control the boundary amendment process, as follows:

- a. A parcel of land adjacent to or across the street from the historic district or property may be added to the historic district or property by rezoning the parcel to a historic zoning district (such as B-3 or CBD), and parcels zoned within a historic district or property may be removed from the historic district or property by rezoning the parcel to a non-historic zoning district (such as a zoning district other than B-3 or CBD).
- b. The petition to amend the official zoning map submitted in accordance with the Zoning Ordinance of the City of Dahlenega shall serve as the application to amend the boundary of the historic district or property.
- c. In addition to the zoning map amendment procedures in the Zoning Ordinance requiring a public hearing to be held by the Planning Commission, the Historic Preservation Commission shall be provided a copy of the rezoning petition and recommendation by the Zoning Administrative Officer, and invited to provide comments or recommendations on the petition by no later than the time of the public hearing on the petition by the City Council. Failure to provide comments or recommendations shall be of no effect.
- d. The action taken by the City Council to approve or approve with modifications the rezoning petition shall automatically amend the boundaries of the historic district or property.
- e. For parcels added to a designated historic district or property, notification to the owners of such parcels shall be given in accordance with Section IV.E.7.

2. Historic Districts or Properties Designated by General Boundary Description, Tax Parcel Identifier, or Map or Plat:

The boundary of a previously designated historic district or property set forth by general boundary description, tax parcel identifier, or map or plat, shall be amended in the same manner as the historic district or property was initially designated, following the procedures of Section IV.E.

Section IV.

Application to Commission for Certificate of Appropriateness

A. Approval of Material Change in Appearance in Historic Districts or Involving Historic Properties:

After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of a contributing or non-contributing building,

structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof unless or until the application for a Certificate of Appropriateness has been submitted to and approved by the Commission. A Building Permit shall not be issued without a Certificate of Appropriateness.

B. Submission of Plans to Commission:

An Application for a Certificate of Appropriateness shall be accompanied by drawings, photographs, plans and documentation as may be required by the Commission.

C. Interior Alterations:

In its review of applications for Certificates of Appropriateness the Commission shall not consider interior arrangement or use having no effect on exterior architectural features.

D. Technical Advice:

The Commission shall have the power to seek technical advice from outside its members on any application.

E. Public Hearings on Applications for Certificates of Appropriateness. Notices, and Right to be Heard:

1. The Commission shall hold a public hearing at which each proposed Certificate of Appropriateness is considered, in accordance with its adopted rules for public notice of and procedures for conducting such hearings.
2. The Commission shall give the property owner and/or applicant an opportunity to be heard at the Certificate of Appropriateness hearing, as well as any interested party in attendance.

F. Acceptable Commission Reaction to the Applications for Certificates of Appropriateness:

Commission Action: The Commission may approve the Certificate of Appropriateness as proposed, approve the Certificate of Appropriateness with any modifications it deems necessary, or reject it.

1. 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 applicable Standards for Rehabilitation in the Secretary of Interior's Standards for Historic Preservation Projects, any design guidelines the Commission may adopt, any other factors the Commission may deem pertinent, and the following specific criteria depending on the type of action proposed by the application:

- a. Reconstruction, Alteration, New Construction or Renovation:

A decision by the Commission approving or denying a Certificate of Appropriateness for the reconstruction, alteration, new construction or renovation of any building, structure, site feature, or object within a historic district shall be guided by:

1. the architectural style of the structures located on or proposed to be located on the property;
2. the general design, arrangement, texture, and material of the architectural features involved; and
3. the relationship of the property to the exterior architectural style and pertinent features of other structures on properties adjacent to or directly across the street from the subject property.

b. Relocation:

A decision by the Commission approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object into or within a historic district shall be guided by:

1. the historic character and aesthetic interest that the building, structure, or object will contribute to its proposed location;
2. whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be;
3. whether the building, structure, or object can be moved without significant damage to its physical integrity;
4. whether the historical and architectural character of the building, structure, site, or object to be relocated will be compatible with the historical and architectural character of the historic district.

c. Demolition:

A decision by the Commission approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, sites, trees judged to be 50 years old or older, or objects shall be guided by:

1. the historic, scenic, or architectural significance of the building, structure, site, tree, or object;
2. the importance of the building, structure, site, tree, or object to the ambiance of the district;
3. the difficulty or impossibility of reproducing such a building, structure, site, tree, or object because of its design, texture, material, detail, or unique location;

4. whether the building, structure, site, tree, or object is one of the last remaining examples of its kind in the neighborhood or the city;
5. whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;
6. whether reasonable measures can be taken to save the building, structure, site, tree, or object from collapse;
7. whether the building, structure, site, tree, or object is capable of earning reasonable economic return on its value.

2. In cases where the approved application covers a material change in the appearance of a structure which would require the issuance of a building permit, said permit shall not be issued within less than fifteen (15) days from the date of Issuance of Determination established in accordance with Section V.H.2, or within fifteen (15) days after the forty-five (45) day period leading to automatic approval under Section V.H.3. An appeal of the Commission's determination filed under Section V.N shall suspend issuance of any building permit until the appeal is decided by the City Council.

G. Undue Hardship:

When, by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in the exceptional practical difficulty or undue economic hardship upon any owner of a specific property, the Commission, in passing upon applications, shall have the power to vary or modify strict adherence to said provisions, or to interpret the meaning of said provisions, so as to relieve such difficulty or hardship; provided such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance. An undue hardship shall not be a situation of the person's own making.

H. Deadline for Approval or Rejection of Application for Certificate of Appropriateness:

1. The Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five (45) days after the official filing date as established by the Commission for an application submitted by the owner or occupant of a historic property or of a building, structure, site, or object located within a historic district. Evidence of approval shall be by a Certificate of Appropriateness issued by the Commission. Notice of the issuance or denial of a Certificate of Appropriateness shall be sent by United States mail to the applicant and all other persons who have requested such notice in writing filed with the Commission.

2. Issuance of Determination.

a. Following action on an application for a Certificate of Appropriateness by the Commission, the Commission's Secretary or other designated person shall prepare, sign

and mail an Issuance of Determination to the applicant or the applicant's representative of record.

b. The Issuance of Determination shall include the action taken by the Commission and the date of said action, and shall be sent by U.S. Certified Mail, return receipt requested, to the address shown on the application for the applicant or the applicant's representative of record. An electronic copy may be sent via the internet at the applicant's request.

c. The effective date of an Issuance of Determination shall be the date it is signed by the Commission's Secretary or other designated person and placed in the U.S. Mail.

3. Failure of the Commission to approve or reject an application within forty-five (45) days after the official filing date shall constitute approval, and no other evidence of approval shall be needed.

I. Necessary Action to be Taken by Commission upon Rejection of Application for Certificate of Appropriateness:

1. In the event the Commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The Commission may suggest alternative courses of action it thinks proper although 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 after doing so.

2. In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a Certificate of Appropriateness by the Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.

J. Requirement of Conformance with Certificate of Appropriateness:

1. All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the Commission shall issue a cease and desist order and all work shall cease.

2. The Dahunega City Council or the Commission shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this ordinance or to prevent any illegal act or conduct with respect to such historic property or historic district.

K. Certificate of Appropriateness Void if Construction not Commenced:

1. A Certificate of Appropriateness shall become void unless a building permit is issued or construction is commenced within six (6) months of date of Issuance of Determination pursuant to Section V.H.2.

2. Certificates of Appropriateness shall be issued for a period of eighteen (18) months and are renewable upon approval by the Commission.

L. Recording an Application for Certificate of Appropriateness:

The Commission shall keep a public record of all applications for Certificate of Appropriateness, and of all the Commissions proceedings in connection with said application. These records shall be maintained at City Hall.

M. Acquisition of Property:

The Commission may, where such action is authorized by the Dahlonega City Council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, of the property or any interest therein.

N. Appeals:

Any person adversely affected by any determination made by the Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the Dahlonega City Council. Any such appeal must be filed with the Dahlonega City Council within fifteen (15) days after the Issuance of Determination pursuant to Section V.H.2 of this Ordinance or, in the case of a failure of the Commission to act, within fifteen (15) days of the expiration of the forty-five (45) day period allowed for the Commission action under Section V.H.3 of this Ordinance. The Dahlonega City Council may approve, modify, or reject the determination made by the Commission, if the governing body finds that the Commission abused its discretion in reaching its decision, or may return the matter to the Commission for further consideration for any reason the City Council finds pertinent. Appeals from decisions of the Dahlonega City Council to approve, modify, or reject the determination made by the Commission may be taken to the Superior Court of Lumpkin County in the manner provided by law for appeals from conviction for the City of Dahlonega ordinance violations.

Section V.

Maintenance of Historic Properties and Building and Zoning Code Provision

A. Ordinary Maintenance or Repair:

Ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay, or to sustain the existing form, and that does not involve a material change in design, material, or outer appearance thereof, does not require a Certificate of Appropriateness.

B. Failure to Provide Ordinary Maintenance or Repair:

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The Commission shall be charged with the following responsibilities regarding deterioration by neglect:

1. The Commission shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Such conditions as broken windows, doors and openings which allow the elements and vermin to enter, and the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.

2. In the event the Commission determines a failure to provide ordinary maintenance or repair, the Commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property will have thirty (30) days in which to do this.

3. In the event that the condition is not remedied in thirty (30) days, the owner shall be punished as provided in Section VIII of this Ordinance and, at the direction of the Dahunega City Council, the 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 Commission.

C. Affirmation of Existing Building and Zoning Codes:

Nothing in this Ordinance shall be construed as to exempt property owners from complying with existing City or County building and zoning codes, nor to prevent any property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.

Section VI.

Conformance to State Law

By virtue of the City of Dahunega having adopted ordinances relative to planning and zoning for historic preservation prior to March 31, 1980, it is recognized that the City is exempt from all provisions of the Georgia Historic Preservation Act pursuant to O.C.G.A. § 44-10-23, and that said exemption extends to all subsequent replacements or amendments in whole or in part of such ordinances. Any conformity between ordinances, regulations or other acts of the City of Dahunega related to historic preservation and the Georgia Historic Preservation Act is voluntary on the part of the City and shall not disturb or affect the exemption established under O.C.G.A. § 44-10-23.

Section VII.

Penalty Provisions

Violations of any provision of this Ordinance shall be punished in the same manner as provided for punishment of violations of validly enacted Ordinances of the City of Dahunega, Georgia.

Section VIII.

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.

Section IX.

Repealer

Section X. Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other ordinance or regulation, the provisions of this Ordinance shall govern. Whenever the provisions of any other ordinance or regulation require more restrictive standards than are required by this Ordinance, the provisions of such ordinance or regulation shall govern. This Ordinance amends and restates in its entirety Ordinance 98-3, known as the Historic Preservation Ordinance of Dahlonega, Georgia, adopted on March 2, 1998.

Effective Date

This Ordinance as amended shall become effective on July 2, 2012.

THEREFORE BE IT RESOLVED that the Dahlonega City Council does hereby ordain, resolve and enact the foregoing Historic Preservation Ordinance for the City of Dahlonega, Georgia as amended herein and hereby.

Adopted this 2<sup>nd</sup> day of July, 2012.

Implementation: 2<sup>nd</sup> day of July, 2012.

APPROVED:

DAHLONEGA CITY COUNCIL

BY: Gary McCullough

MAYOR

ATTEST: Lou Stewart, City Clerk

## **RULES OF PROCEDURE**

### **DAHLONEGA HISTORIC PRESERVATION COMMISSION**

**ADOPTED JULY 8, 1998; AMENDED AUGUST 22, 2012**

#### Section I. PURPOSE

To establish general rules and procedures for considering and processing applications for Certificates of Appropriateness within designated historic districts; for conducting Historic Commission meetings; and, for administration within the Historic Preservation Commission.

#### Section II. GENERAL RULES

The Dahlonega Historic Preservation Commission (the "Commission") shall be governed by the terms of the Dahlonega Historic Preservation Ordinance as contained in the Code of Ordinances of the City of Dahlonega, as it may be amended or revised from time to time.

#### Section III. JURISDICTION

The jurisdiction for requiring certificates of appropriateness as required by the Dahlonega Historic Preservation Ordinance shall be those historic districts and historic properties designated by the Dahlonega City Council as such from time to time, and as delineated on the official zoning map on file in the Planning & Zoning Department for the City of Dahlonega.

#### Section IV. MEMBERS, OFFICERS, AND DUTIES

A. General. The Commission shall be composed of seven members, the majority of whom shall have demonstrated special interest, experience, or education in history, architecture, or other design related professions.

B. Chairman. The voting members of the Historic Preservation Commission shall elect a chairman. He/She will have a one-year term, and may serve no more than three consecutive terms. The chairman shall decide the points of order and procedure, subject to the rules, unless directed by the majority of the Commission at that time. The chairman shall appoint committees that are necessary to investigate matters before the Commission. The Chairman shall only vote in the event of a tie.

C. Vice-Chairman. A vice-chairman shall be elected by the Commission from among its members in the same matter as the chairman and shall be eligible for reelection. He/she shall serve as acting chairman in the absence of the chairman, and at such times will have the same powers and duties as the chairman.

D. Secretary. A member of the Planning & Zoning Department, or another employee designated by the Mayor, shall serve as secretary to the Commission. Under the Chairman's direction,

the secretary shall keep all records, conduct all correspondence, and generally supervise the clerical work of the Commission. The secretary shall not be eligible to vote.

E. Elections. Terms for officers begin in January. Members shall receive a written notification of the election of officers at least (30) days prior to the regular January meeting.

F. Terms of Appointments. Terms of appointments shall be three years from the date of appointments.

G. Meeting Attendance. Should a member fail to attend three consecutive meetings of the Commission with no adequate excuse, the chairman, with the concurrence of the majority of the entire Commission, shall recommend a vacancy and request that the vacancy position be filled by the City Council.

H. Applications Involving Members. No Commission member shall take part in the hearing, consideration, or determination of any matter before the Commission in which he/she has a personal or financial interest.

I. Incorporation of New Commissioners. When a new Commissioner is appointed, the following actions shall be taken:

1. Within a week of an appointment, the Secretary shall provide a new Commissioner with copies of:

- i. the Historic Preservation Ordinance,
- ii. the Dahlonega Historic District Design Guidelines,
- iii. the Dahlonega Historic Preservation Commission Rules of Procedure,
- iv. the Georgia Historic Preservation Act, and
- v. copies of the minutes of the last six Commission meetings.

2. Within a month of an appointment, the Chairman shall appoint a subcommittee which shall be selected from the current Commissioners, previous Commissioners, the city Attorney and the Commission Secretary. The subcommittee shall meet with the new Commissioner to review:

- vi. the Commissioner's duties,
- vii. responsibilities of the Historic Commission,
- viii. the Rules of Procedure,
- ix. and the procedure for the processing, review and evaluation of an application for a Certificate of Appropriateness .

## Section V. MEETINGS

A. Regular Commission meetings shall be on the third Wednesday of each month at 6:00 pm at the Dahlonega City Hall; the meetings may be held in another place of convenience if directed by the Chairman in advance of the meeting and such change in venue is posted in accordance with the Georgia Open Meetings Act.

B. Special Meetings. The chairman may call Special Commission Meetings at any time. At least twenty-four (24) hours notice of the time and place of special meetings shall be given, by the secretary or the chairman, to each member of the Commission and notice of such meeting shall be posted in accordance with the Georgia Open Meetings Act

C. Cancellation of Meetings. Whenever there is no business, the chairman may cancel a meeting with twenty-four (24) advance notice to each member of the Commission.

D. Quorum. A quorum shall consist of a majority of the voting members of the Commission.

E. Conduct of Meetings. All meetings are open to the public. The order of business includes: a) roll call; b) adoption of the minutes of the previous meeting; c) committee reports; d) unfinished business; e) new business.

F. Review Criteria. When reviewing an application for a certificate of appropriateness (COA), the Commission shall take into account maps and other available data showing the historic and architectural significance of the subject property or structure and nearby structures that would potentially be affected. The Secretary of the Interior Guidelines will be used in all rehabilitation projects. In its review the Commission shall consider the recommendations and applicability of any design guidelines that the Commission may have adopted and take into account the following elements as the Commission may deem appropriate to ensure that the exterior form and appearance of the structure is consistent with the historical or visual character of the District:

1. The height of the building in relation to the average height of the nearest and adjacent and opposite buildings.
2. The setback and placement on the lot of the building in relation to the average setback and placement of the surrounding buildings.
3. Exterior construction materials, including textures and patterns but not to include color.
4. Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.
5. Roof shapes, forms and materials.
6. Proportions, shapes, positioning and locations, patterns and sizes of any elements of fenestration.
7. General form and proportions of buildings and structures.
8. Appurtenant fixtures and other features such as lighting.
9. Structural condition and soundness.

The Commission may designate more explicit design criteria as it deems necessary.

G. Consideration of COA Applications. Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of applications for COAs shall be as follows:

1. The chairman or another directed person shall give a preliminary statement summarizing the application;
2. The applicant shall present arguments in support of his/her application;
3. Other persons in support of the application shall be allowed to speak;
4. Persons opposed to granting the application shall present their arguments;
5. Statements or arguments submitted by any official, commission, state agency, preservation association, etc shall be presented as directed by the chairman;
6. The chairman, or another directed person, shall summarize the evidence which has been presented, giving all parties the opportunity to make objections or corrections;
7. The Commission shall thereafter deliberate whether to deny, approve, approve with modifications the Commission deems necessary, or table the application;
8. Testimony shall be sworn unless all parties agree to waive the oath;
9. Procedures may be modified by concurrence of all parties and the Commission itself. The Commission, with discretion, can view the premises and obtain additional facts concerning any application before arriving at a decision. All decisions shall be supported by appropriate findings of fact, and any objections may be supported with recommendations that are supported within the ordinance.
10. Tabled applications shall be scheduled for consideration at a Special Meeting no later than two weeks after the public hearing on the application, at which time the application must be denied, approved or approved with modifications the Commission deems necessary. No further public notice regarding the application shall be required, and no further public comment is required to be, but may be, allowed by the Commission.

H. Vote. The vote of a majority of those members present shall be sufficient to decide matters before the Commission, if a quorum is present. The Chairman shall only vote in the event of a tie.

## Section VI. APPLICATION PROCEDURES

A. An application for a COA must be filed with the Secretary to the Commission thirty (30) calendar days prior to the Commission meeting at which the request will be considered, accompanied by all relevant details of the proposed project. Applications transmitted to the Commission's Secretary earlier than the thirty (30) day deadline shall be considered informational and shall not be considered as filed until the thirty (30) day deadline.

B. Public Notice.

1. Public Notice by Mail. Using stamped, self-addressed envelopes supplied by the applicant, the secretary to the Commission shall notify by regular U.S. mail, not less than one week prior to the meeting at which the matter is to be heard, the property owners of each property located, in whole or in part, adjacent to the subject property and directly across any street from the subject property. Such owners shall be those as listed in the most recent tax digest for the City of Dahlonega.

2. Public Notice by Publication. The secretary to the Commission shall place a legal notice in the newspaper designated by the City of Dahlonega as the legal organ of the City, during the week preceding the week in which the Commission will hold its public hearing. The notice shall state the location of the property to which the application applies, generally the nature of the request, and the time and place of the Commission's public hearing.

3. Public Notice by Signage. The secretary to the Commission shall provide a sign to be placed by the owner on the property, on the building or in a window. The sign is to be placed by the owner not less than one week prior to the meeting at which the matter is to be heard, in a location clearly visible and legible from the street frontage, and the owner shall maintain the sign on the property until the application has been heard by the Commission. The notice shall state, generally, the nature of the request and, specifically, the time and place of the Commission's public hearing.

C. In all cases the Commission shall hold a public hearing concerning the COA application, notice of which shall be given in accordance with paragraph B of this Section VI. The applicant, affected property owners and other interested parties shall be given an opportunity to be heard at the public hearing at which the application is presented.

D. The Commission must issue or deny a COA within 45 days after the filing deadline of the application, except when the time limit has been extended by mutual agreement. Failure of the Commission to act within the 45-day (or mutually extended) period shall constitute approval, and no other evidence of approval shall be needed.

E. On the first working day following action on a COA application by the Commission, the secretary to the Commission shall prepare, sign and mail an Issuance of Determination to the applicant or the applicant's representative of record, in accordance with the requirements of the Historic Preservation Ordinance of the City of Dahlonega.

F. If the application is approved, the following shall apply:

1. The secretary shall transmit a COA in letter form, clearly describing the nature of the work that has been approved. The secretary shall attach a copy of the minutes concerning the said application and placard form of a COA to be displayed on the project. A copy of this information shall be forwarded to the building inspector or other City official that is responsible for its enforcement.

2. No building permit shall be issued within less than fifteen (15) days from the date of Issuance of Determination. An appeal of the Commission's determination to the City Council shall suspend issuance of any building permit until the appeal is decided by the City Council.

G. If an application is denied, a copy of the minutes of the meeting and a written statement of reasons of denial shall be made available to the applicant. The commission may but is not required to suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he/she so desires, may make modifications to the plans and may re-submit the application at any subsequent filing deadline after doing so.

#### Section VII. AMENDMENTS

These rules may, within the limits allowed by the law, be amended at any time by an affirmative vote of not less than five (5) of the members of the Commission, provided that such amendment shall have first been presented to the members of the Commission in writing at a regular or special meeting preceding the meeting at which the vote is taken.

#### Section VIII. EFFECTIVE DATE

These Rules of Procedure, as amended, shall become effective upon their adoption by the Dahlonge Historic Preservation Commission.

THEREFORE BE IT RESOLVED, that the Dahlonge Historic Preservation Commission does hereby adopt the foregoing Rules of Procedure as amended herein and hereby.

Adopted this 22<sup>nd</sup> day of August, 2012.

APPROVED:

DAHLONEGA HISTORIC PRESERVATION COMMISSION

BY: Jimmy Anderson, Chairman of the Commission

ATTEST: Patricia L. Head, Secretary to the Commission

## **The Secretary of the Interior's Standards for Rehabilitation**

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.