

WATKINSVILLE HISTORIC PRESERVATION ORDINANCE

[Derived from Georgia Historic Preservation Act, OCGA 44-10-20 Et. Seq.]

AN ORDINANCE TO ESTABLISH A HISTORIC PRESERVATION COMMISSION; TO PROVIDE FOR: DESIGNATION OF HISTORIC PROPERTIES AND DISTRICTS AND CERTIFICATES OF APPROPRIATENESS AND AN APPEALS PROCEDURE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES. BE IT ORDAINED BY WATKINSVILLE MAYOR AND COUNCIL, AND IT IS SO ORDAINED.

SECTION I - Purpose

The historical heritage of Watkinsville ("City") is among its most valued and important assets, and the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people. Demolition by neglect of historic buildings, and unregulated new developments in historic areas, in a traditional, historic 200+ year old community such as Watkinsville, produce a devastating effect on town character and quality of life.

Watkinsville seeks to enhance the opportunities for tax benefits and the protection, preservation and rehabilitation of historic properties and historic districts. The City cherishes its citizens and its heritage. Over the last twenty years, Watkinsville has been actively transformed into a desirable and walkable location to reside, do business and visit, but has lost several historic structures over those decades due to demolition and demolition by neglect.

It is in the public interest to promulgate regulations to best protect historic property and the health, safety and welfare of the residents. Historic Preservation and careful planning, particularly in historic areas and along historic corridors, can preserve historic homes and allow new development to be blended into existing historic areas without compromising the unique character of Watkinsville. To preserve Watkinsville's historic ambiance and character, standards are necessary to prevent the loss of our priceless historic treasures and protect our historic areas. To stimulate revitalization of business districts and historic neighborhoods, to protect and enhance local historic attractions to tourists and thereby promote and stimulate business, to enhance the opportunities for tax benefits, and to provide for designation, protection, preservation and rehabilitation of historic properties and districts and to participate in programs to do the same: Mayor and Council declare it to be the purpose and intent of this Ordinance to establish a uniform procedure for the protection, enhancement, perpetuation and use of districts, and buildings having a special historical, interest or value, per this Ordinance.

SECTION II - Definitions

- A. "Building" – a structure, permanent or temporary, to shelter any form of human activity; may refer to a historically related complex such as a courthouse and jail or a house and barn.
- B. "Certificate of Appropriateness" – document evidencing approval by Preservation Commission of an application for a material change in appearance of a designated historic property or of a property in a designated historic district.
- C. "Exterior Architectural Features" – architectural style, general design and general arrangement of the exterior of a building, structure or object, including but not limited to kind or texture of the building material and the type and style of windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the forgoing.

D. "Historic District" - geographically definable area, which contains structures with: 1. special historical interest or value; 2. one or more periods or styles of architecture typical of one or more eras in the history of the City; and 3. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the City. A Historic District shall further mean an area designated by Council as a Historic District per IV B.

E. "Historic Property" - structure worthy of preservation for one or more of the following reasons: 1. an outstanding example of a structure representative of its era; 2. one of the few remaining examples of a past architectural style; 3. associated with an event or person of historic or cultural significance to the City; or designated by Council as a historic property per IV C.

F. "Historic" - a structure in a Historic District generally more than 70 years old.

G. "Material Change in Appearance" - change that will affect exterior architectural features of a historic property or in a historic district, such as: 1. reconstruction or alteration of size, shape or façade of a historic property, including relocation of doors or windows or removal or alteration of architectural features, details or elements; 2. Demolition or relocation of a historic structure.

H. "Non-historic" - less than 70 years old.

I. "Abuse of Discretion" - decision of Commission based on a clearly erroneous judgment that is clearly unreasonable, erroneous, or arbitrary and not justified by the facts or this Ordinance.

See Code of Ordinances for other applicable definitions

SECTION III - Creation of Commission

A. There is hereby created a "HISTORIC PRESERVATION COMMISSION" ("Commission"), part of the planning function of the City. Members shall be appointed by Mayor and Council.

B. The Commission shall consist of 5 members, City residents, with special interest, experience or education in history, architecture, or preservation of historic resources, or related fields such as planning or real estate. Up to 3 may be professionals in such fields. Members shall serve 2-year terms and be eligible for reappointment. Initial appointments shall be: 2 members for one year; 3 members for two years. Members shall not receive a salary. Any vacancy shall be filled by Mayor and Council, who may remove any member in its discretion.

C. Authority: The Commission shall be authorized to: a. Prepare and maintain an inventory of property having potential for designation as historic; b. Recommend to Council specific districts and buildings to be designated as historic properties or districts; c. Review applications for Certificates of Appropriateness; d. Recommend to Council that designation of any district or building be revoked; e. Restore or preserve any historic properties acquired by the City; f. Promote acquisition by the City of façade easements and conservation easements, as appropriate, per the Conservation Easement Act; g. Conduct educational programs on historic properties in the City and on historic preservation activities; h. Study matters relating to preservation, including consultation with preservation experts; i. Seek out funds for preservation, and make recommendations to Council concerning most appropriate uses of funds; j. Submit to the DCA Historic Preservation Division historic properties and historic districts designated; k. Perform preservation activities as the official City preservation program; l. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties, but not obligate the City without prior consent; m. Review and make comments to the DCA Historic Preservation Division concerning nomination of properties within its jurisdiction to the National Register; n. Participate in historic preservation programs and with consent of Council, enter agreements to do the same. o. Attend training to further the education of commission members per budget; p.

Receive such volunteer services as appropriate, and employ persons and services within budget to carry out the responsibilities of the commission in an appropriate manner.

D. The Commission shall adopt rules, standards and guidelines, including applications for designation of historic properties and districts and Certificates of Appropriateness. The Commission shall adopt rules and standards in or via amendment to this Ordinance, filed with the clerk; and copies of such shall be made available to the public. The rules shall provide for the following at a minimum: a. selection of Commission officers; b. time and place of meetings, and calling of special meetings; c. procedures for public hearings; d. keeping of minutes and Commission records; e. voting; f. conflicts of interest policy; g. attendance policy; h. forms for applying for Certificates of Appropriateness; i. sufficient project information to make sound determinations regarding applications for Certificates of Appropriateness; j. list of minor works for which city staff may Administratively issue Certificates of Appropriateness.

E. The Commission shall obey all conflict-of-interest laws in Statutes and in the City Charter.

F. A public record shall be kept of resolutions, proceedings and actions, to contain the vote of each member on each question, or if absent or failing to vote, indicating such fact. Staff may make and maintain a recording of each meeting and shall keep minutes of all proceedings, and records of the commission, including all evidence or other documentation submitted to the commission, to be maintained at City Hall.

SECTION IV - Recommendation and Designation of Historic Districts and Properties

A. Preliminary Research:

1. The Commission shall compile and collect information and conduct surveys of historic resources within the City.
2. The Commission shall make a formal recommendation and provide a designation report to Council regarding specific districts and buildings to be designated as historic properties (70 years or older) or historic districts.
3. Prior to the Commission's recommendation of a historic district or historic property for designation, the Commission shall prepare a Report for Nomination consisting of:
 - a. a physical description of the property(ies) being nominated including age - Historic (more than 70 years old) or non-historic (less than 70 years old);
 - b. a statement of the historical significance of the historic district or property;
 - c. a map showing the boundaries of the historic district or historic property
 - d. a list of tax map numbers or addresses of each property in a historic district or historic property;
 - e. representative photos; and
 - f. Guidelines the Commission proposes to use for Certificates of Appropriateness.

B. Requirements for Designation of Historic Districts and Historic Properties:

1. Designations may be proposed by the 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. Any ordinance designating any property or district as historic shall:
 - a. describe each historic property by age, address, tax map number, and zoning. For a historic district, include a description of the boundaries of the district with a list of each property in such district by address, tax map number, and zoning.
 - b. name the owner(s) of the designated property(ies);
 - c. require a Certificate of Appropriateness from the Commission prior to a material change in appearance of the designated property; and
 - d. requires the property or district be shown on an Official Zoning Map of the City and kept as a public record to provide notice of such designation.
3. Commission and Council shall hold a public hearing on any proposed designation of any historic district or property. Notice shall be published in at least 3 consecutive issues in the legal organ and written notice shall be mailed to all owners and occupants of such properties. Written notice will be posted on the City website. All such notices shall be published or mailed not less than 15 nor more than 20 days prior to the public hearing. A notice via US mail to the last-known owner of the property shown on the tax digest and a notice to attention of the occupant constitute legal notice to the owner and occupant.
5. No less than 30 days prior to a recommendation on any ordinance designating a property or district as historic, the Commission must submit the report, required in IV.A.3, to the DCA Historic Preservation Division, for 30 days to prepare written comments concerning the report.
6. A recommendation to affirm, modify or withdraw the designation shall be made by the Commission within 15 days following the Hearing, via a resolution to the Council.
7. Following receipt of the Commission recommendation, Council may adopt as proposed, may adopt with any amendments they deem necessary, or reject the ordinance.
8. Within 30 days following designation, the owners and occupants of each designated historic property, and the owners and occupants of each property in a designated historic district, shall be given written notice of such, which shall apprise said owners and occupants of the necessity of a Certificate of Appropriateness prior to any material change in appearance. A notice via US mail to the last-known owner shown on the tax digest and a notice via US Mail to the occupant constitute legal notification.
9. The Commission shall notify all necessary agencies in the City of the designation.
10. The properties and district shall be shown on an Official Zoning Map of the City and be kept as a public record to provide notice of such designation

SECTION V - Certificate of Appropriateness

A. After designation of a historic property or a historic district, no material change in appearance shall be made, until Certificate of Appropriateness approved by the Commission. A Building Permit shall not issue without Certificate of Appropriateness.

B. An Application for Certificate of Appropriateness shall be accompanied by drawings, photos, plans and documentation required by the Commission.

C. The Commission shall not consider interior arrangements or the use thereof having no effect on exterior architectural features.

D. The Commission may seek outside technical advice.

E. Concept review; preliminary proposal. Informal consultation with staff is possible at least 15 days prior to application for COA to help applicants identify issues and options. Proposals for informal review should preferably be emailed, and be accompanied by elevations, drawings, photos or plans. Comments during a review are non-binding first-impressions to assist applicant in refining the project prior to application. Comments are based on concepts and limited information and subject to change. Common agenda items may include: Clarification on how project can comply with this ordinance; Discussion of circumstances preventing applicant from meeting the criteria. Any omissions or changes may result in reconsideration of the informal comments provided. Depending on complexity, staff may require additional time to research. Staff is not responsible for identifying all issues or suggesting design approaches or alternatives. Applicant is responsible for compliance with all requirements.

F. Administrative modifications. Modifications to approved COA's which are minor, that do not constitute a Material Change in Appearance, qualify for Administrative review. Requests shall be accompanied by elevations, drawings, photos and plans that describe such. Administrative review shall be limited to work which constitutes a minor modification to a COA which clearly and distinctly complies with established criteria. Administrative review decisions shall be reported to the HPC at the next meeting.

G. The Commission shall hold a public hearing on Certificates of Appropriateness. Notice shall be published on City website and mailed by the Commission to all owners and occupants of the property. The Commission shall post notice of such via a 11"x17" or larger sign in a conspicuous place on the property. The sign shall read generally: "An application has been filed with the Historic Preservation Commission regarding this property, requesting a Certificate of Appropriateness to allow the following work: _____. A public hearing will be held to review and decide the matter at City Hall, Watkinsville, Georgia, on [DATE], at [TIME]. All persons having an interest should attend. Visit City Hall or Call 706-769- 5161 for details."

If the Commission reviews a project in which a member has ownership or other interest, that Member shall leave the table, and abstain from discussion, other than answering direct factual questions as objectively as possible and not as an advocate.

H. Procedure: Speakers should provide supporting documentation prior to date of hearing. Speakers shall sign the speaker list. The Commission shall give the property owner and/or applicant and members of the public no less than 10 minutes per side, with equal time to both the 1) owner/applicant/supporters and 2) opponents. All speakers shall address only the merits of the application, and address remarks only to the Commission. Speakers shall refrain from verbal attacks, any discussion irrelevant to the application, or other inappropriate comments. No debate or argument between speakers or with the Commission will be allowed. Speakers shall not repeat previous comments. The presiding officer or designee shall refuse a speaker the right to continue, if the speaker, after being cautioned, again violates any section. Once the hearing ends, only Commission members and staff speak, unless questions are posed.

I. Criteria and Standards. The Commission shall be guided by 1) state law and 2) in part by the Secretary of the Interior's standards for rehabilitation and 3) other written guidelines, criteria, procedures or policy statements adopted by the Commission and approved by Mayor and Council. The Commission shall evaluate for any substantial adverse effect on the historic

significance or value of the historic property or District. The Commission shall consider historical value and significance; architectural style; design, arrangement, texture and materials of the architectural features involved; and the relationship thereof to the exterior architectural style and pertinent features of other structures in the immediate neighborhood.

New construction shall conform in orientation, setback, scale, form, design, and materials, to the visual and historic character of the historic property or District specified in design guidelines, criteria, procedures, zoning ordinance and policy statements.

The non-binding general Standards summarized below are national guidelines revised in 1990 as part of Department of the Interior Regulations (36 CFR Part 67, Historic Preservation Certifications). Applicable Standards should be applied reasonably.

1. A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the structure and its site and environment.
2. The historic character of a property shall be preserved. The removal of historic materials or alteration of features that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its original time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other structures, shall not be undertaken.
4. Properties change over time; 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 severe deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color 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, shall not be used. Surface cleaning shall be undertaken using the gentlest means possible.
8. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property.
9. New additions and adjacent or related new construction shall be undertaken so if removed in the future, the essential form and integrity of the historic property would be unimpaired.

J. Demolition. HPC shall not approve demolition without first reviewing post-demolition plans, and may grant or deny demolition. Structures proposed for demolition due partly or primarily to applicant's negligent or intentional neglect are not eligible for demolition.

- 1) If a property owner shows, by clear and convincing evidence, that a structure classified as historic, cannot be cost effectively repaired to be compliant with the applicable codes at a reasonable cost in relation to the repaired value of the structure, and the Commission fails to issue a COA, such may be demolished. "Clear and convincing evidence" is evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element and a high probability as

to the correctness of the conclusion. Clear and convincing evidence requires proof greater than a preponderance, but less than beyond a reasonable doubt. The Commission shall consider acquisition cost, annual maintenance costs, age of the property, significance of the property, whether there are other similar examples in the community and whether the objective documented repair cost exceeds a general guideline range of 40 - 70% of repaired value of the structure.

2) The Commission shall determine "reasonable cost in relation to the repaired value" without consideration of value of the land or income and financial status of the owner. The lower range of percent of repair cost relative to repaired value shall be considered where there is: higher acquisition cost, higher annual maintenance costs, newer age of the property, less significance of the property, or multiple other similar examples remaining. The higher range of percent of repair cost relative to repaired value shall be considered where there is: modest acquisition cost, lower annual maintenance costs, older age of the property, greater significance of the property, or few other similar examples remaining.

3) Repaired value and costs of repair may be established by affidavits of Georgia licensed real estate appraisers, qualified licensed building contractors, or building inspectors. Costs of repair shall be the cost necessary to bring the structure into compliance with applicable codes.

4) Before a demolition COA issues, 2 months' notice of proposed demolition shall be posted on the premises of the structure in a location clearly visible from the street, to give interested persons, entities, societies and organizations the opportunity to acquire such.

5) Determination of appropriate percent of repair cost range and decision by the Commission shall be further guided by: historic significance of the structure; the importance of such to the character of a District; the difficulty or the impossibility of reproducing such because of design, material, detail, or unique location; whether such is one of the last remaining examples of its kind in the neighborhood or the city; whether there are acceptable plans likely to meet the criteria for a COA if demolition is carried out, and effect of those plans on the character of the surrounding area.

K. Relocation. Considering relocation of a structure onto a historic property or into a historic District, the Commission shall use the criteria herein for new construction. Considering relocation of a historic structure off of a historic property or out of a historic District, the Commission shall use the following criteria: The historic significance of the structure; the importance of such to the character of a District; whether reasonable measures can be taken to not relocate the structure; difficulty or impossibility of reproducing such because of its design, texture, material, detail, or unique location; whether such is one of the last remaining examples of its kind in the neighborhood, city or county; whether there are acceptable plans for use of the property likely to meet criteria for a COA if the proposal is carried out, and effect of those plans on the character of the surrounding area.

L. Acceptable Commission Reaction to Applications for Certificate of Appropriateness:

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

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 historic or architectural significance and value of the historic property or the historic

district. The Commission shall consider, in addition to any other pertinent factors, the criteria in any Design Guidelines. It shall be issued for 18 months and is renewable.

Approval with conditions. If the Commission identifies elements of a proposed material change in appearance not in compliance with the criteria and the proposal would have a substantial adverse effect on the historic significance and value of the historic property or District, it may recommend conditions and/or changes to render the application compliant. If applicant agrees to such, the Commission shall, conditioned upon the conditions and/or changes being memorialized in revised plans, approve the application as so modified and issue a COA after the decision.

Table/withdrawal. If the Commission is unable to decide because the application is insufficient, it shall be treated as incomplete and be resubmitted in complete form. If it is unable to decide because the applicant or representative is unavailable, it may deny the application or table to a date certain no later than the next regularly scheduled meeting. The time to decide an application before it is deemed approved shall be tolled if tabling is due to applicant's unavailability.

M. Undue Hardship: When, by reason of unusual circumstances, the strict application of this Ordinance would result in exceptional practical difficulty or undue economic hardship on the owner, the Commission may vary from provisions, to relieve such difficulty or hardship; provided such shall remain in harmony with the general purpose and intent of said provisions, so the 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 best fulfill the purpose of this Ordinance. An undue hardship shall not be a situation of applicant's own making.

N. Deadline: The Commission shall approve or deny a Certificate of Appropriateness within 45 days of complete application. Notice of the issuance or denial shall be by US mail to the applicant and all others who requested such notice in writing filed with the Commission. Failure to act within said 45 days shall constitute approval.

O. Action on Denial: If the Commission denies, it shall state its reasons, and transmit a record of such to the applicant. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application. The applicant may modify the plans and resubmit the application. In cases where the application covers a material change in of a structure which would require a building permit, rejection of a Certificate of Appropriateness shall be binding on the officer charged with issuing building permits and no permit shall issue.

P. Conformity with Certificate of Appropriateness: All work per a Certificate of Appropriateness shall conform to the requirements of such. If work is not per such, the Commission shall issue a cease and desist order and all work shall cease. The Commission and Council may institute any appropriate action per ordinance or institute a proceeding in court to prevent any material change in appearance of a designated historic property or historic district, except changes in compliance with this ordinance or to prevent any illegal act or conduct.

Q. Void if Construction not Commenced: A Certificate of Appropriateness shall become void unless construction is commenced within 6 months of issuance.

R. Records: The Commission shall keep a public record of all applications and proceedings.

S. Acquisition of Property: The Commission may, where authorized by Council and reasonably necessary or appropriate for preservation of a unique historic property, negotiate with the owner for acquisition by gift, purchase, exchange, or otherwise, to the property.

T. Appeals: A person adversely affected by a determination by the Commission may appeal such to Council, filed within 15 days after the determination per V.H1 or of the expiration of the 45 days for the Commission action, V.H2. Council may approve, modify, or reject the determination by the Commission, if it finds the Commission abused its discretion. Appeals from Council may be to the Superior Court in the manner for appeals from conviction for ordinance violations.

SECTION VI - Maintenance of Historic Properties, Codes

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. Exemptions: All of the following shall be exempt from review by the Commission: 1. Interior alterations. The Commission shall not consider interior arrangements or the use thereof having no effect on exterior architectural features; 2. Storm windows, storm doors, and screens; 3. Color

C. Failure to Provide Maintenance or Repair: Owners of historic properties or properties in historic districts shall not allow buildings to deteriorate by failing to provide ordinary maintenance or repair. The Commission shall be charged with the following responsibilities.

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

Foundations. All foundations shall be free of holes, wide cracks and buckling.

Structural members. Floor supports and any structural members thereof must be of sufficient size to carry imposed loads with safety. Members of walls, partitions or other vertical supports must not split, lean, list or buckle so as to jeopardize structural integrity. Structural members of ceilings, roofs or other horizontal structural members must not sag, split or buckle or be of insufficient size to carry imposed loads with safety. Interior staircases shall be maintained in good repair.

Exterior surfaces and materials. Floors, exterior walls and roofs shall not have holes, wide cracks, loose, warped, protruding or rotting boards or any other elements. Exterior surfaces exposed to the weather shall be repaired and weatherproofed, where appropriate, to protect them from deterioration. Masonry joints shall be maintained. Fireplaces or chimneys must not list, bulge or settle or be of insufficient size or strength to carry imposed loads with safety.

Weather protection and ventilation. Buildings, including windows, doors and siding shall be watertight. Exterior flashing, including that at chimneys, doors, and windows, shall be maintained in good repair. Downspouts and gutters shall be maintained so runoff is directed away from the structure. Foundation and attic vents shall be maintained to ventilate the crawl and attic spaces.

Stairways, porches and appurtenances. Exterior staircases, porches and appurtenances shall be maintained in good repair.

Rodents / termites. Structures shall be free of wood boring insects and rodent infestation.

Security. Vacant buildings shall be properly secured, and utilities shall be properly connected or disconnected.

Trees and soil. Tree limbs shall be trimmed away from the building, and tree roots shall be cleared away from all foundations. Soil erosion and soil deposition shall not be allowed to endanger any structures.

If the Commission determines a failure to provide ordinary maintenance or repair, the Commission will notify the owner and set forth the steps per below to remedy such. If not remedied timely, the owner shall be punished per Section VII and, at the direction of Council, the Commission may perform such maintenance or repair necessary to prevent deterioration by neglect. The owner shall be liable for the cost of maintenance and repair by the Commission.

D. Notice and Time for Failure to Provide Ordinary Maintenance or Repair: If a nonconformity, certified and regular mail notice shall be served on the owner and all parties in interest, who will have 30 days to respond in writing outlining steps to remedy, 60 days from receipt of notice to begin the steps, and 180 days from receipt of notice to complete, unless such time shall be extended up to 180 days due to the expense and/or complexity of the repairs.

E. Public hearing and action for Failure to Provide Ordinary Maintenance or Repair.

a) Within 30 days of receipt of notice, the owner or party in interest who takes exception may request a hearing and receive an opportunity to appear, and present testimony.

b) Notice of date, time and place of hearing shall be given via certified and regular mail to the owner and party with an interest and by signage on the premises and legal ad in the legal organ as outlined above. The rules of evidence shall not control, although all parties shall be provided a fair and impartial hearing and entitled to present all relevant evidence. If the Commission agrees with the original notice, it shall state its reasons, and provide the decision and reasons in support, in writing, to the affected party.

c) If the owner or party in interest does not seek a hearing, or a hearing upholding the notice is had and not appealed, or all appeal rights are exhausted and the notice has been upheld, the City may cause to be performed such maintenance as is necessary to stabilize and prevent further deterioration, and/or a case may commence in municipal court. Any affected party may appeal to Council, for non- *de novo* review. The appeal must be filed with the city clerk in writing within 30 days after the decision. The city may approve, modify or reject the decision if Council finds the Commission abused its discretion (no evidence to support the decision). Council may remand the matter to the Commission for further consideration. Any owner or party of interest who takes exception to the decision or a lien may appeal to the superior court.

F. Lien for Maintenance and Repairs.

a) At the direction of Council, maintenance and repair necessary to prevent deterioration or demolition by neglect may be performed by someone other than the owner. The owner shall be liable for the cost, which shall be a lien against the property upon which the structure is situated and attach to the property at the time of payment of all costs of maintenance or repair by the City, and filing of an itemized statement of the total sum of such costs by the City in the clerk of the superior court. Nothing herein shall impair or limit the power of the City to define and declare nuisances and cause their removal or abatement. Notice shall be as follows:

b) A copy shall be conspicuously posted on the structure within 3 business days of filing of the lien. A copy shall also be served certified mail, return receipt requested, or statutory

overnight delivery to all interested parties whose identity and address are reasonably ascertainable. Copies shall also be mailed to the property address to the attention of occupants, if any. For any owner or party in interest whose mailing address is unknown, a notice stating date, time, and fact of filing of the lien shall be published in the legal organ once a week for 2 consecutive weeks prior to the hearing.

c) The City may enforce collection of any amount due on a lien as follows: The lien shall attach to the property on filing of a copy in the office of the clerk of superior court, who shall record and index such copy of the order in the deed records of the county and enter the lien on the GED. The lien shall be superior to all other liens on the property, except liens for taxes, and continue in force until paid. The City shall transmit to the Tax Commissioner a statement of total amount due and secured by said lien, together with copies of all notices provided to interested parties. The statement shall be transmitted within 90 days of completion of repairs. The Tax Commissioner shall collect the amount of the lien using all methods available for collecting real property *ad valorem* taxes, including Chapter 4 of Title 48; provided, however, the limitation of 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. A Tax Commissioner shall collect and enforce municipal liens per 48-5-359.1, and shall remit the amount collected to the City. Enforcement of liens per this section may be initiated at any time following receipt by the Tax Commissioner of the final determination of costs. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property *ad valorem* taxes. An enforcement proceeding per 48-4-78 for delinquent *ad valorem* taxes may include all amounts due under this Chapter. The redemption amount in any enforcement proceeding per this section shall be the full amount of the costs as finally determined per this section together with interest, penalties, and costs incurred by the City and Tax Commissioner in the enforcement of such lien. Redemption of property from the lien may be made per 48-4-80 and 48-4-81.

G. Affirmation of Existing Building and Zoning Codes: Nothing in this Ordinance shall exempt property owners from complying with existing City building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances or regulations. Where there is a conflict between the standards hereof and the standards of the underlying zoning district, the standards hereof govern. Where this silent on a standard, the standard of the underlying zoning district or other applicable section of the Code shall apply.

SECTION VII - Penalty Provisions

Violations of any provisions hereof shall be punished in the same manner as punishment of violations of validly enacted Ordinances of the City. A person or entity who shall violate the codes, or erect, construct, alter, install, demolish, or move a structure or system in violation of a statement or drawing or plan, shall be guilty of an ordinance violation. It is a separate offense for each and every day or portion thereof during which any violation continues, and upon conviction, shall be punished as provided by this Code.

SECTION VIII - Severability

If any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjunction shall in 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 part thereof.

SECTION IX - Repealer

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION X - Effective Date

This Ordinance shall become effective on February 21, 2024.

THEREFORE, BE IT RESOLVED, that the WATKINSVILLE City Council do hereby ordain, resolve and enact foregoing Historic Preservation Commission Ordinance for the City.

Adopted after an advertised public hearing this 21st day of February, 2024, effective this date.


WATKINSVILLE CITY COUNCIL

BY:



Mayor

ATTEST:



(City Clerk)

