

STATE OF GEORGIA

CITY OF HAMPTON

ORDINANCE NO. 2021-548

AN ORDINANCE TO AMEND APPENDIX A - ZONING, ARTICLE 9 – HISTORIC PRESERVATION BE REPEALED AND REPLACED; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

THE COUNCIL OF THE CITY OF HAMPTON HEREBY ORDAINS:

Section 1. That Section APPENDIX A – ZONING, ARTICLE 9. – HISTORIC PRESERVATION be repealed and replaced.

Section 2. That Section APPENDIX A – ZONING, ARTICLE 9. – HISTORIC PRESERVATION as replaced shall read:

Article 9 – Historic Preservation

Sec. 9-4. Creation of a Historic Preservation Commission.

- A. Creation of the Commission. There is hereby created a commission whose title shall be "The Hampton Historic Preservation Commission" (hereinafter "Commission").
- B. Commission Position within the City Government. The Commission shall be part of the planning functions of the City of Hampton.
- C. Commission Members: Number, Appointment, Terms and Compensation. The Commission shall consist of seven members. The Mayor and each member of the City Council shall appoint one member each to the Commission to coincide with the term of the elected official making the appointment, but such term shall not exceed three years. Appointments to the Commission shall occur at the first City Council meeting in February following an election year. All members shall be residents of Hampton and shall be persons who have demonstrated special interest, experience, or education in history, architecture, or the preservation of historic resources. To the extent available in the City, at least three members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related professions. All members shall serve without compensation but may be reimbursed for actual expenses incurred in performance of their duties, based upon submission of invoices to the city manager.
- D. Statement of Commission's Power. The Commission shall be authorized to:
 - 1. Prepare and maintain an inventory of all property within the City of Hampton having the potential for designation as historic property;
 - 2. Recommend to the Hampton City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
 - 3. Review application for Certificates of Appropriateness and grant or deny same in accordance with the provisions of this Ordinance;

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4. Recommend to the Hampton 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 Hampton;
 6. Promote the acquisition by the City of Hampton 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. § 44-10-1 through 44-10-5);
 7. Conduct educational programs on historic properties located within the City and on general historic preservation activities;
 8. Make such investigation and studies of matters relating to historic preservation, including consultation with historic preservation experts, the Hampton City Council or 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 Hampton 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 of historic districts designated;
 11. Perform historic preservation activities as the official agency of the Hampton Historic Preservation Program;
 12. Employ persons, if necessary, to carry out the responsibilities of the Commission;
 13. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The Commission shall not obligate the City of Hampton 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 its jurisdiction to the National Register of Historic Places; and
 15. Participate in private, state and federal historic preservation programs and with the consent of the Hampton City Council, enter into agreements to do the same.
- E. Commission's Power to Adopt Rules and Standards. The Commission shall adopt rules and standards for the transaction of its business and for consideration of application for designation of Certificates of Appropriateness, such as by-laws, removal of membership provision, and design guidelines and criteria. The 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 the members.
- 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 Hampton Charter and City Code.
- 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 resolution, proceedings and actions.

(Ord. No. 457 , § 1, 8-14-18)

Sec. 9-6. Application 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 a historic district, no material changes 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 such 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.** The Commission shall hold a public hearing at which each proposed Certificate of Appropriateness is discussed. Notice of the hearing shall be published in the principal newspaper of local circulation in the City and written notice of the hearing shall be mailed by the Commission to all owners and occupants of the subject property. The written and published notice shall be provided in the same manner and time frame as notices are provided before a Public Hearing for Rezoning. The Commission shall give the property owner and/or applicant an opportunity to be heard at the Certificate of Appropriateness hearing.
- F. **The Hampton Historic Preservation Commission Policy and Design Guidelines, adopted by City Council by Resolution and subsequently amended and adopted by reference in this article, are flexible in interpretation of compliance of the design standards as determined by the Zoning Administrator and the Historic Preservation.**
- G. **It is the intent of this article that all development be in accordance with the applicable standards Policy and Design Guidelines, but that the final authority to determine whether a development is consistent or inconsistent with these guidelines shall rest with the Historic Preservation Commission, subject to appeal provisions.**
- H. **The commission may approve the Certificate of Appropriateness as proposed, approve the Certificate of Appropriateness with any modifications it deems necessary, 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 aesthetic, historic, or architectural significance and value of the historic property or the historic district. In making this determination, the Commission shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:**
 - 1. **Reconstruction, Alteration, New Construction or Renovation.** The Commission shall issue Certificates of Appropriateness for the above proposed actions if those actions conform in design, scale, building materials, setback, and site features, and to the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

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2. Relocation. A Decision by the Commission approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object shall be guided by:
 - i. The historic character and aesthetic interest the building, structure or object contributes to its present setting;
 - ii. 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;
 - iii. Whether the building, structure or object can be moved without significant damage to its physical integrity; and
 - iv. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.
 3. Demolition. A decision by the Commission approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, sites, tree, or object judged to be 50 years old or older, shall be guided by:
 - i. The historic, scenic or architectural significance of the building, structure, site, tree or object;
 - ii. The importance of the building, structure, site, tree, or object to the ambiance of a district;
 - iii. The difficulty or the impossibility of reproducing such a building, structure, site, tree, or object because of its design, texture, material, detail, or unique location;
 - iv. Whether the building, structure, site, tree, or object is one of the last remaining examples of its kind in the neighborhood or the City;
 - v. 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;
 - vi. Whether reasonable measures can be taken to save the building, structure, site, tree, or object from collapse; and
 - vii. Whether the building, structure, site, tree, or object is capable of earning reasonable economic return on its value.
 - I. Undue Hardship. When, by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in 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 provisions so as to relieve such difficulty or hardship; provided such variances, modifications 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.
 - J. 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 45 days after the filing thereof 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. Failure of the Commission to act within said 45 days shall constitute approval, and no other evidence of approval shall be needed.

K. 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 if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
2. In cases where the application covers 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.

L. 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 Commission and the Hampton City Council 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.

M. Certificate of Appropriateness Void if Construction not Commenced. A Certificate of Appropriateness shall become void unless construction is commenced within 6 months of date of issuance. A Certificate of Appropriateness shall be issued for a period of 18 months and is renewable upon application and approval of the Historic Preservation Commission.

N. Recording an Application for Certificate of Appropriateness. The Commission shall keep a public record of all applications for Certificates of Appropriateness and of all the Commission's proceedings in connection with said application.

O. Acquisition of Property. The Commission may, where such action is authorized by the Hampton 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, to the property or any interest therein.

P. Appeals. Any person adversely affected by any determination made by the Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the Hampton City Council. Any such appeal must be filed with the Hampton City Council within 15 days after the issuance of the determination pursuant to subsection 9-6(H)(1) or, in the case of a failure of the Commission to act within 15 days of the expiration of the 45 day period allowed for the Commission action, subsection 9-6(H)(2). Appeals for properties within the City of Hampton shall be made to the Hampton City Council. The Hampton 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. Appeals from decisions of the Hampton City Council shall be made to the Superior Court of Henry County by writ of certiorari within 30 days of the final decision.

(Ord. No. 457 , § 1, 8-14-18)

Sec. 87-61 – 87-100. – Reserved.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Hampton.

Section 4. This Ordinance shall take effect immediately upon its adoption. All Ordinances in conflict herewith are expressly repealed. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Hampton, Georgia, and the sections of this Ordinance may be renumbered, if necessary, to accomplish such intention.

Section 5.

- a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.
- b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause and phrase of this Ordinance is severable from every other, section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- c. In the event that any phrase, clause, sentence, paragraph or Section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED, this 13th day of July, 2021.

CITY OF HAMPTON, GEORGIA



MARTY MEEKS, Mayor Pro Tem

ATTEST:



RASHIDA FAIRLEY, City Clerk Interim

APPROVED AS TO FORM:


L'ERIN BARNES WIGGINS, City Attorney

First Reading: 6/8/2021

Second Reading/
Adoption: 7/13/2021