

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF PERRY, GEORGIA, FOR THE PURPOSE OF AMENDING APPENDIX A, THE LAND MANAGEMENT ORDINANCE, OF THE CODE OF THE CITY OF PERRY, TO ESTABLISH A HISTORIC PRESERVATION COMMISSION, TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES**

**THE COUNCIL OF THE CITY OF PERRY HEREBY ORDAINS that the Land Management Ordinance of the Code of the City of Perry is amended as follows:**

1.

By amending **Section 2-1.3 – Main Street advisory board**. to replace subsection (B) to read as follows:

- (B) Provide recommendations on Certificates of Appropriateness to the administrator. When a property is located in the downtown development overlay district and a historic district or is a historic property, the main street advisory board shall yield its review authority to the preservation commission.

2.

By renumbering **Section 2-1.4 – Duties and powers of the administrator**. to **Section 2-1.5 – Duties and powers of the administrator**. and by adding a new **Section 2-1.4 – Historic Preservation Commission** to read as follows:

2-1.4 Historic Preservation Commission. The City of Perry Historic Preservation Commission, hereinafter referred to as the Preservation Commission, is created and established to be organized and empowered as provided herein. The Preservation Commission shall be part of the planning functions of the City of Perry.

2-1.4.1. Membership; compensation.

- A. The Preservation Commission shall consist of five (5) members appointed by the mayor and ratified by the City Council. All members shall be residents of the City of Perry, Georgia, 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 one (1) member shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related professions.
- B. Members shall serve three-year terms. There is no limit on the number of terms members may serve. To achieve staggered terms, initial appointments shall be: one (1) member for one (1) year; two (2) members for two (2) years; and two (2) members for three (3) years.
- C. Members shall not receive a salary, although they may be reimbursed for expenses.

2-1.4.2. Meetings; rules of procedure; records; finances.

- A. The Preservation Commission shall adopt rules and standards for the transaction of its business and for consideration of application for designation and Certificates of Appropriateness, such as by-laws, removal of membership provision, and design guidelines and criteria. The Preservation Commission shall have the flexibility to adopt rules and standards without amendment to

this Ordinance. The Preservation Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The Preservation Commission shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members.

- B. The Preservation Commission shall be subject to all conflict-of-interest laws set forth in Georgia Statutes and in the City of Perry Charter.
- C. The Preservation Commission shall have the authority to accept donations and shall ensure that these funds do not displace appropriated governmental funds.
- D. A public record shall be kept of the Preservation Commission's resolutions, proceedings, and actions.

2-1.4.3. Duties and responsibilities. The Preservation Commission shall be authorized to:

- A. Prepare and maintain an inventory of all property within the City of Perry having the potential for designation as historic property;
- B. Recommend to the City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
- C. Review application for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Ordinance;
- D. Recommend to the 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;
- E. Restore or preserve any historic properties acquired by the City of Perry;
- F. Promote the acquisition by the City of Perry of façade easements and conservation easements, as appropriate, in accordance with the provisions of the *Georgia Uniform Conservation Easement Act* (O.C.G.A., Section 44-10-1 *et. seq.*);
- G. Conduct educational programs on historic properties located within the City and on general historic preservation activities;
- H. Make such investigation and studies of matters relating to historic preservation, including consultation with historic preservation experts, the City Council, or the Preservation Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
- I. Seek out local, state, federal or private funds for historic preservation, and make recommendations to the City Council concerning the most appropriate uses of any funds acquired;
- J. Submit to the Historic Preservation Division of the Department of Community Affairs a list of historic properties and historic districts designated;
- K. Perform historic preservation activities as the official agency of the Perry historic preservation program;
- L. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The Preservation Commission shall not obligate the City of Perry without prior consent.
- M. Review and make comments to the Historic Preservation Division of the Department of Community Affairs concerning the nomination of properties within its jurisdiction to the National Register of Historic Places; and
- N. Participate in private, state, and federal historic preservation programs and with the consent of the City Council, enter into agreements to do the same.

By replacing **Section 2-3.4 – Designation of historic overlay district**, with a new **Section 2-3.4 – Historic Preservation** to read as follows:

*2-3.4. Historic Preservation.*

*2-3.4.1. Purpose.*

In support and furtherance of its findings and determination that the historical, cultural, and aesthetic heritage of the City of Perry 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;

To stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists and thereby promote and stimulate business;

To enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and

To provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same;

The City Council 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 a special historical, cultural, or aesthetic interest or value, in accordance with the provisions of the Ordinance.

*2-3.4.2. Definitions.*

The following words, terms, and phrases, when used in Section 2-3.4 shall have the meanings ascribed to them in this subsection.

- A. “**Building**” – A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.
- B. “**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.
- C. “**Exterior architectural features**” – Means the architectural style, general design, and general arrangement of the exterior of a building, structure, or work of art, 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 forgoing.
- D. “**Exterior environmental features**” – Means all those aspects of the landscape which affect the historic character of the property or the development of a site, including but not limited to parking areas, driveways, walkways, fences, walls, landscaping, signs, or other permanent landscape elements, and other appurtenant environmental fixtures, features, details, or elements relative to the forgoing.
- E. “**Historic district**” – Means a geographically definable area, possessing a significant concentration, linkage, or continuity of sites, buildings, structures,

or works of art 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 City Council as a Historic District pursuant to the criteria established in Section 2-3.4.3(B) of this Ordinance.

- F. "Historic property" – Means an individual building, structure, site, or work of art including the adjacent area necessary for the proper appreciation or use thereof designated by the City Council as a historic property pursuant to the criteria established in Section 2-3.4.3(C) of this Ordinance.
- G. "Material change in appearance" – Means a change that will affect either the exterior architectural or environmental features of a historic property or of any place, district, site, building, structure, or work of art within a historic district, such as:
  - 1. A reconstruction or alteration of the size, shape, or façade 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 building or 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 structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.
- H. "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.

#### 2-3.4.3. *Recommendation and designation of historic districts and properties.*

##### A. *Preliminary research by the preservation commission.*

- 1. The Preservation Commission shall compile and collect information and conduct surveys of historic resources within the City of Perry.
- 2. The Preservation Commission shall present to the City Council recommendations for historic districts and properties.
- 3. Prior to the Preservation Commission's recommendation of a historic district or historic property to the City Council for designation, the Preservation 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, or non-contributing) of individual properties therein, or showing boundaries of individual historic properties; and
  - d. representative photographs.

##### B. *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. has special character or special historic/aesthetic value or interest;

- b. represents 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. causes such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.
  - 2. Boundaries of a Historic District. Boundaries of a Historic District shall be included in the separate ordinances designating such districts and shall be shown on the Official Zoning Map of the City of Perry, or in the absence of zoning, on an official map designated as a public record.
  - 3. Evaluation of properties within Historic Districts. Individual properties within historic districts shall be classified as:
    - a. Contributing (contributes to the district)
    - b. Non-contributing (does not contribute to the district, as provided for in B.1 above.)
- C. *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 City of Perry, the region, or the State of Georgia 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;
    - c. it is a place or structure associated with an event or persons of historic or cultural significance to the City of Perry, 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.
- D. *Requirements for adopting an ordinance for the designation of historic districts and historic properties.*
  - 1. *Application for designation of historic districts or property.* Designations may be proposed by the City Council, the Preservation Commission, or:
    - a. for historic districts – a historical society, neighborhood association or group of property owners may apply to the Preservation Commission for designation;
    - b. for historic properties – a historical society, neighborhood association or property owner may apply to the Preservation Commission for designation.
  - 2. *Required components of a designation ordinance.* Any ordinance designating any property or district as historic shall:
    - a. list each property in a proposed historic district or describe the proposed individual historic property;
    - b. set forth the name(s) of the owner(s) of the designated property or properties;
    - c. require that a Certificate of Appropriateness be obtained from the Preservation Commission prior to any material change in appearance of the designated property; and
    - d. require that the property or district be shown on the Official Zoning Map of the City of Perry and be kept as a public record to provide notice of such designation.
  - 3. *Required public hearings.* The Preservation Commission and the City Council shall each hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three (3) consecutive issues in the principal

newspaper of local circulation, and written notice of the hearing shall be mailed by the administrator to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearings. A notice sent via the United States mail to the last-known owner of the property shown on the City tax digest and a notice sent via attention of the occupant shall constitute legal notification to the owner and occupant under this ordinance.

4. *Notification to DCA.* No less than thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic, the Preservation Commission must submit the report, required in Section 2-3.4.3(A)(3), to the Historic Preservation Division of the Department of Community Affairs.
5. *Recommendations on proposed designations.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the Preservation Commission within forty-five (45) days following the Public Hearing and shall be in the form of a resolution to the City Council.
6. *City council actions on the preservation commission's recommendation.* Following receipt of the Preservation Commission recommendation, the City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments they deem 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 City Council, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the City Council, which notice shall apprise said owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last-known owner of the property shown on the City tax digest and a notice sent via attention of the occupant shall constitute legal notification to the owner and occupant under this ordinance.
8. *Notification of other agencies regarding designation.* The administrator shall notify all necessary agencies within the City of Perry of the ordinance for designation.
9. *Moratorium on applications for alteration or demolition while ordinance for designation is pending.* If an ordinance for designation is being considered, the City Council shall have the power to freeze the status of the involved property.

#### 2-3.4.4. *Application for certificate of appropriateness.*

##### A. *Exemptions.*

1. The Georgia Department of Transportation and any contractors, including cities and counties, performing work funded by the Department of Transportation are exempt from this section.
2. Local governments are exempt from the requirement of obtaining certificates of appropriateness; provided, however, that local governments shall notify the preservation commission 45 days prior to beginning an undertaking that would otherwise require a certificate of

appropriateness and allow the preservation commission an opportunity to comment.

- B. *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 Preservation Commission. A Building Permit shall not be issued without a Certificate of Appropriateness.
- C. *Submission of plans.* An Application for a Certificate of Appropriateness shall be accompanied by such drawings, photographs, plans and documentation as may be required by the Preservation Commission.
- D. *Interior alterations.* In its review of applications for Certificates of Appropriateness, the Preservation Commission shall not consider interior arrangement or use having no effect on exterior architectural features.
- E. *Technical advice.* The Preservation Commission shall have the power to seek technical advice from outside its members on any application.
- F. *Public hearings on applications for certificates of appropriateness, notices, and right to be heard.* The Preservation Commission shall hold a public hearing for each proposed Certificate of Appropriateness. The preservation commission shall cause to have posted in a conspicuous place on the property in question a minimum of one (1) "public hearing" sign for every 1,000 feet of road frontage, each of which shall not be less than six (6) square feet in area, and which shall state the date, time, place, and purpose of the public hearing. Such signs shall be posted on the subject property at least 15 days prior to but not greater than 45 days prior to the public hearing. The Preservation Commission shall give the property owner, applicant, and others wishing to speak an opportunity to be heard at the Certificate of Appropriateness hearing.
- G. *Acceptable preservation commission reaction to applications for certificate of appropriateness.* The Preservation Commission may approve the Certificate of Appropriateness as proposed, approve the Certificate of Appropriateness with any modifications it deems necessary, or reject it. The Preservation 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 Preservation 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 Preservation Commission shall issue Certificates of Appropriateness for the above proposed actions if those actions conform in design, scale, building materials, setback, and site features, to the Secretary of Interior's Standards for Rehabilitation, Guidelines for Rehabilitating Historic Buildings, and any other design guidelines adopted by the Preservation Commission.
  - 2. *Relocation:* A decision by the Preservation Commission approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object shall be guided by:
    - a. The historic character and aesthetic interest the building, structure or object contributes to its present setting.
    - b. 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.

- c. Whether the building, structure or object can be moved without significant damage to its physical integrity.
  - d. 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 Preservation Commission approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, or sites judged to be 50 years old or older, or works of art shall be guided by:
- a. The historic, scenic, or architectural significance of the building, structure, site, or work of art.
  - b. The importance of the building, structure, site, or work of art to the ambiance of a district.
  - c. The difficulty or the impossibility of reproducing such a building, structure, site, or work of art because of its design, texture, material, detail, or unique location.
  - d. Whether the building, structure, site, or work of art is one of the last remaining examples of its kind in the neighborhood or the city.
  - e. 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.
  - f. Whether reasonable measures can be taken to save the building, structure, site, or work of art from collapse.
  - g. Whether the building, structure, site, or work of art can earn reasonable economic return on its value.
- H. *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 hardship upon any owner of a specific property, the Preservation Commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions or to interpret the meaning of the provision 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 owner's or occupant's own making.
- I. *Deadline for approval or rejection of application for certificate of appropriateness*.
- 1. The Preservation Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of 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 Preservation Commission. Notice of the issuance or denial of a Certificate of Appropriateness shall be sent in writing to the applicant and all other persons who have requested such notice in writing filed with the Preservation Commission.
  - 2. Failure of the Preservation Commission to act within said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed.
- J. *Necessary action to be taken by preservation commission upon rejection of application for certificate of appropriateness*.

1. In the event the Preservation Commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The Preservation Commission may suggest alternative courses of action 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 Preservation 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.
- K. *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 Preservation Commission shall issue a cease-and-desist order and all work shall cease.
  2. The Preservation Commission and the 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.
- L. *Expiration of certificate of appropriateness.* A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of date of issuance. A Certificate of Appropriateness shall be issued for a period of eighteen (18) months and may be renewed.
- M. *Record of applications for certificate of appropriateness.* The Preservation Commission shall keep a public record of all applications for Certificates of Appropriateness, and of all the Preservation Commission's proceedings in connection with said application.
- N. *Acquisition of property.* The Preservation Commission may, where such action is authorized by the 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.
- O. *Appeals.* Any person adversely affected by any determination made by the Preservation Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the City Council. Any such appeal must be filed with the City Council within fifteen (15) calendar days after the issuance of the determination pursuant to Section 2-3.4.4(1)(1) of this Ordinance or, in the case of a failure of the Preservation Commission to act, within fifteen (15) calendar days of the expiration of the forty-five (45) day period allowed for the Preservation Commission action pursuant to Section 2-3.4.4(1)(2) of this Ordinance. The appeal shall be in writing and state the grounds for the appeal. The City Council may approve, modify, or reject the determination made by the Preservation Commission, if the governing body finds that the Preservation Commission abused its discretion in reaching its decision. Appeals from decisions of the City Council may be taken to the Superior Court of Houston County or Peach County, whichever is appropriate, in the manner provided by law.

2-3.4.5. *Maintenance of historic properties and building and zoning code provisions.*

- A. *Affirmation of existing building and zoning codes.* Nothing in this Ordinance shall be construed as to 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.
- B. *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.

4.

By amending **Section 2-3.8.2 Historic Overlay District** by deleting it in its entirety and replacing it with **Section 2-3.8.2 Historic Properties and Historic Overlay Districts. See Section 2-3.4.4.**

**BE IT FURTHER ORDAINED** that all ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed; and that should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of this governing authority.

**SO ENACTED this 16<sup>th</sup> day of August, 2022.**

**CITY OF PERRY, GEORGIA**

By: \_\_\_\_\_  
Randall Walker, Mayor

Attest: \_\_\_\_\_  
Annie Warren, City Clerk

1<sup>st</sup> Reading: August 2, 2022  
2<sup>nd</sup> Reading: August 16, 2022