

ORDINANCE

AN ORDINANCE TO ESTABLISH AN ARCHITECTURAL REVIEW BOARD IN THE CITY OF WINTERVILLE TO PROVIDE FOR DESIGNATION OF HISTORIC PROPERTIES OR HISTORIC DISTRICTS AND CHARACTER AREAS; 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 WINTERVILLE CITY COUNCIL.

SECTION I

Purpose

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Winterville 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 stimulate revitalization of the business districts, commercial nodes and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists and thereby promote and stimulate business and to assure compatibility with community architectural review goals;

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 the protection of property values by assuring architectural compatibility and 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 Winterville City Council does hereby declare 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 character areas, 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.

SECTION II

Definitions

- 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 Architectural Review Board 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 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 forgoing.

- D. "Exterior Environmental Features" – Means all those aspects of the landscape or the development of a site which affect the historic and visual character of the property.
- E. "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 Winterville City Council as a Historic District pursuant to the criteria established in Section IV B of this Ordinance.
- F. "Character Area" – Means Character areas are defined by the Winterville City Council as specific geographic areas that meet the following criteria: have unique or special characteristics; have potential to evolve into a unique area when provided specific and intentional guidance; or require special attention due to unique development issues.
- G. "Historic Property" – Means an individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the Winterville City Council as a historic property pursuant to the criteria established in Section IV C of this Ordinance.
- H. "Material Change in Appearance" – Means a change that will affect either the exterior architectural or environmental features of a designated property or any building, structure, site, object, or landscape feature within a historic district or character area, such as:
 - 1. A reconstruction or alteration of the size, shape or façade of a 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 designated structures;
 - 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 or any buildings or other structures in a designated historic district, historic property or character area, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.
- I. "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.
- J. "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.
- K. "Structure" – A structure is a work made up of interdependent and inter-related parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

SECTION III

Creation of an Architectural Review Board

A. Creation of the Review Board:

There is hereby created a review board and preservation commission whose title shall be "Winterville Architectural Review Board" (hereinafter "ARB")

B. ARB Position within the City Government:

The ARB shall be part of the planning functions of the City of Winterville

C. ARB Members: Number, Appointment, Terms and Compensation:

The ARB shall consist of five (5) members appointed by the Mayor and approved by the City Council. All members shall be residents of Winterville and shall be persons who have demonstrated special interest, experience or education in history, architecture, urban design, and compatibility of infill or the preservation of historic resources.

To the extent available in the City, at least three (3) members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or related professions.

Members shall serve three-year terms. Members may not serve more than two (2) consecutive terms. In order 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. Members shall not receive a salary, although they may be reimbursed for expenses. Members may not serve on other appointed or elected commissions or boards for the City or County government.

D. Statement of ARB's Power:

1. The ARB shall be authorized to:

- a. Prepare and maintain an inventory of all property within the City of Winterville having the potential for designation;
- b. Recommend to the Winterville City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts and areas of special visual character;
- c. Review application for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Ordinance;
- d. Recommend to the Winterville City Council that the designation of any district, site, building, structure or object as a historic property, as a historic district or a character area be revoked or removed;
- e. Restore or preserve any historic properties acquired by the City of Winterville;
- f. Promote the acquisition by the City of Winterville of façade 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*)
- g. Conduct educational programs on historic properties located within the City and on general design compatibility issues;
- h. Make such investigation and studies of matters relating to historic preservation and design compatibility, including consultation with historic preservation and urban design experts, the Winterville City Council or the ARB itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources and perpetuating community character goals;

- i. Seek out local, state, federal or private funds for historic preservation and design compatibility issues, and make recommendations to the Winterville City Council concerning the most appropriate uses of any funds acquired;
 - j. Submit to the Historic Preservation Division of the Department of Natural Resources a list of historic properties of historic districts designated;
 - k. Perform historic preservation and design compatibility activities as the official agency of the Winterville historic preservation program;
 - l. Employ persons, if necessary, to assist the ARB in the review and evaluation of applications. All employment decisions shall be left to the purview of the City and handled by established means;
 - m. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The ARB shall not obligate the City of Winterville without prior consent.
 - n. 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
 - o. Participate in private, state and federal historic preservation and design compatibility programs and with the consent of the Winterville City Council, enter into agreements to do the same.
- E. ARB's Power to Adopt Rules and Standards:
- 1. The ARB 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 ARB shall have the flexibility to adopt rules and standards without amendment to this Ordinance. The ARB shall provide for the time and place of regular meetings and a method for the calling of special meetings. The ARB shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members. All changes to rules and standards must be approved by City Council before taking effect.
- F. Conflict of Interest:
- 1. The ARB shall be subject to all conflict of interest laws set forth in Georgia Statutes and in the City of Winterville Charters.
- G. ARB's Authority to Receive Funding from Various Sources:
- 1. The ARB shall have the authority to accept donations for preservation education, outreach, and advocacy and shall ensure that these funds do not displace appropriated governmental funds.
- H. Records of ARB Meetings:
- A public record shall be kept of ARB resolutions, proceedings and actions, and made available for public review following City rules and standards.

SECTION IV

Recommendation and Designation of Character Areas

- A. Preliminary Research by the ARB:
- 1. ARB's Mandate to Conduct a Survey of Character Areas within the City of Winterville.
 - 2. ARB's Power to Recommend and Designate Character Areas to the Winterville City Council for Designation: The ARB shall present to the Winterville City Council recommendations for character areas.

3. ARB's Documentation of Proposed Designation: Prior to the ARB's recommendation of a character area to the Winterville City Council for designation, the ARB shall prepare a Report for Nomination consisting of:
 - a. a physical description;
 - b. a statement of the historical, cultural, architectural, local, and/or aesthetic significance;
 - c. a map showing district boundaries and classification of individual properties therein, and
 - d. representative photographs.
- B. Designation of a Character Area:
 1. Criteria for selection of character areas: A character area 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, and;
 - b. causes such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.
 2. Boundaries of a character area: Boundaries of a Character Area shall be included in the separate ordinances designating such districts and shall be shown on the Official Zoning Map of the City of Winterville, or in the absence of zoning, on an official map designated as a public record.
- C. Designation of a Character Area:
 1. Criteria for selection of a character area: A character area is a defined geographic area that meets the following criteria deemed worthy of designation by reason of value to the City of Winterville, the region or the State of Georgia for one of the following reasons:
 - a. Have unique or special characteristics;
 - b. Have potential to evolve into a unique area when provided specific and intentional guidance; or
 - c. Require special attention due to unique development issues.
- D. Requirements for Adopting an Ordinance for the Designation of Character Areas:
 1. Application for Designation of Character Areas: Designations may be proposed by the Winterville City Council, the ARB, or a historical society, neighborhood association or group of property owners may apply to the ARB for designation.
 2. Required Components of a Designation Ordinance: Any ordinance designating any area as a character area shall:
 - a. list each property in a proposed character area of describe the proposed individual properties;
 - 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 ARB 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 Winterville and be kept as a public record to provide notice of such designation.
 3. Public Input Meetings: Before any changes, designations, ordinances, standards, or adoptions occur, the ARB is required to hold a public input

session to receive opinion from the community at large. These meetings must be advertised in the principle newspaper of local certification and in City Hall, in addition to any popular methods of communication.

4. **Require Public Hearings:** The ARB or the Winterville City Council shall hold a public hearing on any proposed ordinance for the designation of any character areas. Notice of the hearing shall be published in at least three (3) consecutive issues in the principle newspaper of local circulation, and written notice of the hearing shall be mailed by the ARB 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 hearing. 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.
5. **Recommendations on Proposed Designations:** A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the ARB within fifteen (15) days following the Public Hearing and shall be in the form of a resolution to the Winterville City Council.
6. **The Winterville City Council Actions on the ARB's Recommendation:** Following receipt of the ARB recommendation, the Winterville 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 Winterville City Council, the owners and occupants of each designated property, and the owners and occupants of each structure, site or work of art located within a designated character area, shall be given written notification of such designation by the Winterville 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 property designated or within the character area 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 United States Mail shall constitute legal notification to the owner and occupant under this ordinance.
8. **Notification of Other Agencies Regarding Designation:** The ARB shall notify all necessary agencies within the City of Winterville 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 ARB shall have the power to freeze the status of the involved property.

SECTION V

Recommendation and Designation of Historic Districts and Properties

A. Preliminary Research by the ARB:

1. **ARB's Mandate to Conduct a Survey of Local Historic Resources:** the ARB shall compile and collect information and conduct surveys of historic resources within the City of Winterville.

2. ARB's Power to Recommend Districts and Buildings to the Winterville City Council for Designation: The ARB shall present to the Winterville City Council recommendations for historic districts and properties.
 3. ARB's Documentation of Proposed Designation: Prior to the ARB's recommendation of a historic district or historic property to the Winterville City Council for designation, the ARB 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 OR historic, non-historic, vacant, intrusive} 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 Winterville, 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.)

--OR --

 - a. Historic (more than 50 years old);
 - b. Non-Historic (less than 50 years old, yet possessing architectural character);
 - c. Intrusion (structure less than 50 years old which do not contribute to the character of the district);
 - d. Vacant.
- 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 Winterville, 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 Winterville, 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 of Property: Designations may be proposed by the Winterville City Council, the ARB, or:

- a. for historic districts – a historical society, neighborhood association or group of property owners may apply to the ARB for designation;
- b. for historic properties – a historical society, neighborhood association or property owner may apply to the ARB 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 ARB 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 Winterville and be kept as a public record to provide notice of such designation.

3. Public Input Meetings: Before any changes, designations, ordinances, standards, or adoptions occur, the ARB is required to hold a public input session to receive opinion from the community at large. These meetings must be advertised in the principle newspaper of local certification and in City Hall, in addition to any popular methods of communication.

4. Require Public Hearings: The ARB or the Winterville City Council shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three (3) consecutive issues in the principle newspaper of local circulation, and written notice of the hearing shall be mailed by the ARB 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 hearing. 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.

5. 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 ARB must submit the report, required in Section IV.A.3, to the Historic Preservation Division of the Department of Natural Resources.
6. Recommendations on Proposed Designations: A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the ARB within fifteen (15) days following the Public Hearing and shall be in the form of a resolution to the Winterville City Council.
7. The Winterville City Council Actions on the ARB's Recommendation: Following receipt of the ARB recommendation, the Winterville City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments they deem necessary, or reject the ordinance.
8. Notification of Adoption of Ordinance for Designation: Within thirty (30) days following the adoption of the ordinance for designation by the Winterville 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 Winterville 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 United States Mail shall constitute legal notification to the owner and occupant under this ordinance.
9. Notification of Other Agencies Regarding Designation: The ARB shall notify all necessary agencies within the City of Winterville of the ordinance for designation.
10. Moratorium on Applications for Alteration or Demolition while Ordinance for Designation is Pending: If an ordinance for designation is being considered, the ARB shall have the power to freeze the status of the involved property.

SECTION VI

Application to ARB 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 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 ARB. A Building Permit shall not be issued without a Certificate of Appropriateness.
- B. Submission of Plans to ARB:
An Application for a Certificate of Appropriateness shall be accompanied by such drawings, photographs, plans and documentation as may be required by the ARB.
- C. Interior Alterations:

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

D. Technical Advice:

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

E. Public Hearing Procedures on Applications for Certificates of Appropriateness:

The ARB 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 ARB 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 ARB shall give the property owner and/or applicant an opportunity to be heard at the Certificate of Appropriateness hearing.

F. Action of ARB for Certificates of Appropriateness:

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

1. The ARB 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 ARB shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:
 - a. Reconstruction, Alteration, New Construction or Renovation: The ARB 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*.
 - b. Relocation: A Decision by the ARB approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object shall be guided by:
 1. the historic character and aesthetic interest the building, structure or object contributes to its present setting.
 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 proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.
 - c. Demolition: A decision by the ARB approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, sites, landmark trees, or objects shall be guided by:
 1. the historic, scenic or architectural significance of the building, structure, site, or object.
 2. the importance of the building, structure, site, or object to the ambiance of a district.

3. 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.
4. whether the building, structure, site, landmark 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, landmark tree, or object from collapse.
7. whether the building, structure, site, landmark tree, or object is capable of earning reasonable economic return on its value.

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 ARB, 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 ARB 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 ARB 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 ARB. 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 ARB.
2. Failure of the ARB to act within said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed.

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

1. In the event the ARB 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 ARB 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 ARB 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 ARB shall issue a cease and desist order and all work shall cease.
 2. The ARB and the Winterville 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.
- K. Certificate of Appropriateness Void if Construction not Commenced:
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 is renewable.
- L. Recording an Application for Certificate of Appropriateness:
The ARB shall keep a public record of all applications for Certificates of Appropriateness, and or all the ARB's proceedings in connection with said application.
- M. Acquisition of Property:
The ARB may, where such action is authorized by the Winterville 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.
- N. Appeals:
Any person adversely affected by any determination made by the ARB relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the Winterville City Council. Any such appeal must be filed with the Winterville City Council within fifteen (15) days after the issuance of the determination pursuant to Section V.H1 of this Ordinance or, in the case of a failure of the ARB to act, within fifteen (15) days of the expiration of the forty-five (45) day period allowed for the ARB action, Section V.H 2 of this Ordinance. Appeals for properties within the City of Winterville shall be made to the Winterville City Council. The Winterville City Council may approve, modify, or reject the determination made by the ARB, if the governing body finds that the ARB abused its discretion in reaching its decision. Appeals from decisions of the Winterville City Council may be taken to the Superior Court of Athens-Clarke County in the manner provided by law for appeals from conviction for the City of Winterville ordinance violations.

SECTION VII

Maintenance of Historic Properties and Building and Zoning Code Provisions

- 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 ARB shall be charged with the following responsibilities regarding deterioration by neglect.

1. The ARB shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Conditions such as broken windows, doors and exterior openings which allow the elements and vermin to enter, the deterioration of a buildings structural system, or any other condition deemed to make the structure unsafe or uninhabitable by the code enforcement officer, shall constitute failure to provide ordinary maintenance or repair to the property.
2. In the event the ARB determines a failure to provide ordinary maintenance or repair, the ARB 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 complete the repair, or demonstrate to the ARB through completed plans, affidavits, or other acceptable means that the situation is in the process of being remedied, and provide an estimated date of their completion.
3. In the event that the condition is not remedied, or a the ARB is not provided with a reasonable plan for a remedy within in Thirty (30) days, the owner shall be prosecuted as provided in Section VII of this Ordinance and, at the direction of the Winterville City Council, the ARB 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 ARB.

C. Affirmation of Existing Building and Zoning Codes:

Nothing in this Ordinance shall be constructed 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.

SECTION VIII
Penalty Provisions

Violations of any provision of this Ordinance shall be prosecuted in the same manner as violations of validly enacted Ordinances of the City of Winterville.

SECTION IX
Severability

In the event that 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 X

Repealer

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

SECTION XI
Effective Date

This Ordinance shall become effective on _____.

THEREFORE BE IT RESOLVED, that the Winterville City Council do hereby ordain, resolve and enact foregoing Architectural review board Ordinance for the City of Winterville.

Adopted this _____ day of _____.

Date of Implementation: _____ day of _____.

APPROVED: WINTERVILLE CITY COUNCIL

BY:

_____ (Mayor)

ATTEST:

_____ (City Clerk)