



## **ARTICLE II. HISTORIC PRESERVATION COMMISSION**

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### **Sec. 9.25-31. Purpose.**

In support and furtherance of its findings and determination that the historical, archaeological, and architectural heritage of the City of Cartersville 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 and historic neighborhoods and to protect and enhance local historical attractions to tourists and thereby promote and stimulate business; to encourage the development of financial and other incentives at all levels of government and the private sector that will serve to promote the preservation of historic resources; in order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; in order 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; in order to promote the reuse and recycling of existing building stock in Cartersville and thereby conserve increasingly scarce landfill space and valuable natural resources;

The City Council of the City of Cartersville hereby declares it to be the purpose and intent of this chapter to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, landscape features and works of art having a special historical, cultural, architectural, or archaeological significance, in accordance with the provisions of this chapter.

(Ord. No. 19-01, § I, 5-17-01)

### **Sec. 9.25-32. Historic preservation commission.**

- (a) *Creation of the historic preservation commission.* There is hereby created a commission whose title shall be the "Cartersville Historic Preservation Commission," hereinafter "commission."
- (b) *Historic preservation commission position within the City of Cartersville.* The commission shall be considered a part of the planning and development functions of the City of

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Cartersville and the staff function shall be performed by the department of planning and development.

- (c) *Historic preservation commission members.* Number, appointment, terms, and compensation. The commission shall consist of seven (7) members appointed by the City Council of the City of Cartersville. All members shall be residents of, own and operate a business in, or own real property in the city. Preference shall be given to persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources, but such preference is not required in making such appointments.

Members shall serve three-year terms. In order to achieve staggered terms, initial appointments shall be: two (2) members for two (2) years; and three (3) members for three (3) years. Members shall not receive a salary, although they may be reimbursed for expenses by the city council. The city council will have the authority to remove any member of the historic preservation commission appointed by it for cause, on written charges, after a public hearing.

- (d) *Statement of the commission's powers.*

The commission shall be authorized to:

- (1) Prepare and maintain an inventory of all property within the City of Cartersville having the potential for designation as a historic property;
- (2) Recommend to the city council specific places, districts, sites, buildings, structures, objects, or works of art to be designated by ordinance as historic properties or historic districts;
- (3) Review applications for certificates of preservation and approve, approve with conditions, or deny same in accordance with the provisions of this chapter;
- (4) Recommend to the city council that the designation of any place, district, site, building, structure, object or work of art as a historic property or historic district be revoked or removed;
- (5) Restore or preserve any historic properties acquired by the City of Cartersville with the approval of the city council;
- (6) Promote the acquisition by the City of Cartersville of facade easements in accordance with the provisions of "Facade and Conservation Easements Act of 1976" (O.C.G.A. §§ 44-10-1 through 5);
- (7) Conduct educational programs on historic properties located within the City of Cartersville and on general historic preservation activities;
- (8) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts, as the city council or commission may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
- (9) Seek out local, state, federal, and private funds for historic preservation, and make recommendations to the city council concerning the most appropriate uses of any funds acquired;

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- (10) Submit to the office of historic preservation of the department of natural resources a list of historic properties or historic districts designated, and seek their comments and advice on said designation;
  - (11) Perform historic preservation activities as the official agency of the City of Cartersville's historic preservation program;
  - (12) Employ persons, if necessary, to carry out the responsibilities of the commission, upon approval and appropriation by the city council;
  - (13) Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The commission shall not obligate the City of Cartersville without prior consent;
  - (14) Review and make comments to the historic preservation office of the department of natural resources concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
  - (15) Participate in private, state and federal historic preservation programs and with the consent of the city council enter into agreements to do the same;
  - (16) Recommend to the city council such financial and/or other incentives that can be expected to encourage the preservation of the communities' historic resources and provide a positive incentive to affected property owners;
  - (17) Consult with historic preservation experts in the historic preservation office of the department of natural resources or its successor, the Georgia Trust for Historic Preservation, Inc., the National Trust for Historic Preservation, the Georgia Certified Local Government Program, and other historic commissions.
- (e) *Commission's powers to adopt rules and standards.* The historic preservation commission shall adopt rules and standards for the transaction of its business and for consideration of applications for designations and certificates of preservation, such as by-laws, removal of membership provisions and design guidelines and criteria. The commission shall have the flexibility to adopt rules and standards without amendment to this chapter. The commission shall meet monthly and 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. The latest edition of Roberts' Rules of Order shall determine the order of business at all meetings.
- (f) *Conflict of interest.* At any time the commission receives a project in which a member of the commission has ownership or other vested interest, including the involvement of relatives, that member will be forbidden from presenting, voting, or discussing the project, other than answering a direct question. Provided, however, the commission member may be excused from sitting in attendance with the commission on such matter and may then address the commission as an affected citizen.
- (g) *Records of commission meetings.* A public record shall be kept of the commission's resolutions, proceedings and actions.
- (h) *Meetings of the commission.* The commission shall meet monthly.
- (Ord. No. 19-01, § II, 5-17-01; Ord. No. 47-04, §§ 1—3, 6-17-04; Ord. No. 51-08, § 1, 12-4-08; Ord. No. 11-19, § 1, 4-4-19)

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**Sec. 9.25-33. Recommendation and designation of historic districts and historic properties.**

(a) *Preliminary research by the commission.*

- (1) *Commission's mandate to conduct a survey of local historic resources:* The commission shall compile and collect information and conduct surveys of historic resources within the City of Cartersville.
- (2) *Commission's power to recommend historic districts and properties to the city council for designation:* The commission shall present to the city council recommendations for historic district and historic properties.
- (3) *Commission's documentation of proposed designation:* Prior to the commission's recommendation of a historic district or historic property to the city council for designation, the commission shall prepare a report consisting of:
  - a. A physical description;
  - b. A statement of the historical, cultural, architectural significance;
  - c. A map showing district boundaries and classifications (i.e., historic, non-historic, inclusive) of individual properties therein, or showing boundaries of individual historic properties;
  - d. A statement justifying district or individual property boundaries; and
  - e. 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, landscape features and works of art or a combination thereof, which:
  - a. Have special character or special historic significance;
  - b. Represent one (1) or more periods, styles, or types of architecture typical of one (1) or more eras in the history of the city, county, state or region; and
  - c. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.
- (2) *Boundaries of a historic district:* Boundaries of historic districts shall be included in, or amended to, this chapter and shall be shown on the official zoning map of the City of Cartersville as H-1 overlay zones.
- (3) *Valuation of properties within historic districts:* Individual properties within historic districts shall be classified as:
  - a. *Contributing:* A building, structure, object, site or work of art that adds to the historic architectural qualities or archaeological values for which the district is significant because it was present during the period of significance, relates to the documented significance of the district, and possesses historic integrity or is capable of yielding important information about the period of significance.

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- b. *Non-contributing*: A building, site, structure, work of art, or object that does not add to the historic associations, historic architectural qualities or archaeological values for which a district is significant because it was not present during the period of significance or does not relate to the documented significance of the district, or due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity or is capable of yielding important information about the period.
- (c) *Designation of a historic property.*
- (1) *Criteria for selection of a historic property*: A historic property shall be a building, structure, site, object, landscape feature, or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of significance to the City of Cartersville, State of Georgia, or local region, for one (1) of the following reasons:
- a. It is an outstanding example of a building, structure, object, or work of art representative of its era;
  - b. It is one (1) of the few remaining examples of past architectural styles or types, either in the City of Cartersville or in its respective neighborhood;
  - c. It is a place, building, site, object, work of art, or structure associated with an event or person of historical or cultural significance to the City of Cartersville, State of Georgia, or the region; or
  - d. It is the site of a natural interest that is continuing to contribute to the historical development and heritage of the city, county, state or region.
- (2) *Boundary description for historic properties*: Boundaries of historic properties shall be amended to this chapter and shall be shown on the official zoning map of the City of Cartersville as H-1 overlay zones.
- (3) *Requirements for adopting an ordinance for the designation of historic districts and historic properties*:
- a. Application for designation of historic districts or property may be proposed by the City of Cartersville, the commission, or:
    1. *For historic districts*—A historical society, neighborhood association, preservation organization, or a group of property owners may apply to the commission for designation.
    2. *For historic properties*—A historical society, neighborhood association, preservation organization or property owner may apply to the commission for designation.
  - b. *Required components of a designation ordinance*: Any ordinance designating any property as a historic property or any historic district as a historic district shall:
    1. List each property in a proposed historic district or describe the proposed individual historic property;
    2. Set forth the name(s) of the owner(s) of the individual properties with the proposed historic district or of the proposed historic property;

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3. Require that, upon designation, a certificate of preservation be obtained from the commission prior to any material change in appearance of the historic district or historic property;
  4. Require that, upon designation, the historic district or historic property be shown on the official zoning map of the City of Cartersville and kept as a public record to provide notice of such designation.
- c. *Required public hearing:* The commission and the city council shall each hold a public hearing on any proposed ordinance amendment for the designation of any historic district or property. Notice of the hearings shall be published in at least three (3) consecutive issues in the legal organ which is the principle newspaper of general circulation within Cartersville, Georgia, and written notice of the hearings shall be mailed by the commission 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 Bartow County Tax Assessors Digest and a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.
  - d. *Recommendation on proposed designations:* A recommendation to affirm, modify, or withdraw the proposed ordinance amendment for designation shall be made by the commission within fifteen (15) days following the public hearing and shall be in the form of a resolution to the city council.
  - e. *City council action on commission recommendation:* Following receipt of the commission's recommendation, the city council may adopt the proposed ordinance amendment as proposed, may adopt the proposed ordinance amendments with any changes it deems necessary, or reject the proposed ordinance amendment.
  - f. *Notification of office of historic preservation:* No less than thirty (30) days prior to making a recommendation on any ordinance amendment designating a historic district or a historic property, the commission must submit a report, as required in 9.25-33(a)(3), to the office of historic preservation of the department of natural resources.
  - g. *Notification of adoption of ordinance for designation:* Within thirty (30) days following the adoption of the ordinance amendment for designation by the city council, the owner(s) and occupant(s) of each designated historic property, and the owner(s) and occupant(s) 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. This written notice shall inform said owner(s) and occupant(s) of the necessity of obtaining a certificate of preservation prior to undertaking any material changes 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(s) of the property shown on the Bartow County Tax Assessors Digest and a notice sent via United States mail to the address of said property or properties to the attention of the occupant shall constitute legal notification to the owner(s) and occupant(s) under this chapter.

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- h. *Moratorium on applications for alteration or demolition while the ordinance for designation is pending:* If an ordinance for designation is being considered, the City Council of the City of Cartersville shall have the power to freeze the status of the involved property for up to sixty (60) days.
  - i. *Any properties designated as historic properties, or any district designated as a historic district shall in no way effect the established allowable uses set forth in the Comprehensive Zoning Ordinance of the City of Cartersville:* All boundaries of designated properties and districts shall overlay existing boundaries of existing or future zones, and the intent of the one (1) shall not be in conflict with the intent of the other.

(Ord. No. 19-01, § III, 5-17-01)

### **Sec. 9.25-34. Application to preservation commission for certificate of preservation.**

- (a) *Approval of alterations in historic districts or involving historic properties.* After the designation by ordinance of a historic property or of a historic district, no demolition or material change in the exterior appearance of such historic property, or of a structure, site, object, or work of art within such historic district, shall be made or permitted to be made by the owner or occupant thereof, until a certificate of preservation has been granted by the commission.
- (b) *Approval of new construction within designated districts.* After the designation by ordinance of a historic district, all new structures constructed within a designated historic district shall require a certificate of preservation which the commission shall issue if these structures conform in design, scale, building materials, setback, and landscaping features to the character of the district specified in the design criteria developed by the commission.
- (c) *Guidelines and criteria for certificates of preservation.* When considering application for certificates of preservation for historic districts and historic properties, the commission will develop design guidelines specifically for the City of Cartersville to use in evaluating applications for certificates of preservation. See section 9.25-34 for developing design guidelines.
- (d) *Submission of plans to commission.* An application for a certificate of preservation shall be accompanied by such drawings, photographs, plans, or other documentation as may be required by the commission. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site. An application for a certificate of preservation shall be accompanied by a non-refundable fee in the amount of twenty-five dollars (\$25.00).
- (e) *Commission reaction to application for certificates of preservation.*
  - (1) The commission shall approve or approve with conditions the application and issue a certificate of preservation 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 of the historic property or historic district. In making this determination, the historic preservation commission shall consider, in addition to other pertinent factors, the historical and architectural significance, architectural style, general design arrangements, texture, and material of the architectural features

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- involved, and the relationship thereof to the exterior architectural style, and pertinent features of the other structures, buildings, objects, or works of art in the immediate neighborhood.
- (2) The commission shall deny a certificate of preservation if it finds that the proposed new construction or material change(s) in the appearance of an existing structure(s) would have substantial adverse effects on the historic, or architectural significance of the historic property or the historic district. A certificate of preservation may not be denied on the basis of exterior paint color.
- (f) *Necessary action to be taken by commission upon rejection of application for certificate of preservation.*
- (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, building, object, or work of art which would require the issuance of a building permit, the rejection of the application for a certificate of preservation by the commission shall be binding upon the building official or other administrative officer charged with issuing building permits, and in such a case, no building permit shall be issued.
- (g) *Public hearings on applications for certificates of preservation, notices, and right to be heard.* At least seven (7) days prior to review of an application for certificate of preservation, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application.
- (h) *Interior alterations.* In its review of applications for certificates of preservation, the commission shall not consider interior arrangements, use, or finish having no effect on exterior architectural features.
- (i) *Technical advice.* The commission shall have the power to seek technical advice from outside its members on any application.
- (j) *Deadline for approval or rejection of application for certificate of preservation.*
- (1) The commission shall approve, approve with conditions, or deny an application for certificate of preservation within forty-five (45) days after the filing of a complete application by the owner or authorized agent of a historic property, or of a structure, site, object, or work of art located within a historic district. An application will not be considered filed until all required information is submitted with the application. Evidence of approval shall be a certificate of preservation issued by the commission. Failure of the commission to act with such forty-five (45) days shall constitute approval and no other evidence of approval shall be needed.
- (k) *Undue hardship.* Where, by reason of unusual circumstance, the strict application of any provision of this chapter would result in the exceptional practical difficulty or undue



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

- (l) *Requirements of conformance with certificates of preservation.*
  - (1) All work performed pursuant to an issued certificate of preservation shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the building official shall issue a cease and desist order and all work shall cease.
  - (2) 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 chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.
- (m) *Certificate of preservation void if construction not commenced.* A certificate of preservation shall become void unless construction is commenced within six (6) months of date of issuance. Certificates of preservation shall be issued for a period of eighteen (18) months and are renewable.
- (n) *Recording of applications for certificates of preservation.* The commission shall keep a public record of all applications for certificates of preservation, and all of the commission's proceedings in connection with said application.
- (o) *Acquisition of property.* The 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.
- (p) *Appeals.* Any person adversely affected by any determination made by the commission relative to the issuance of denial of a certificate of preservation may appeal such determination to the city council. Any such appeal must be filed with the city council within thirty (30) days after the issuance of the determination pursuant to section 9.25-34(j)(1) of this chapter. The 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 decision of the city council may be taken to the Superior Court of Bartow County in the manner provided by law for appeals from conviction for city ordinance violations.

(Ord. No. 19-01, § IV, 5-17-01; Ord. No. 47-04, § 6, 6-17-04)

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**Sec. 9.25-35. 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 damage, 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 preservation. Change in paint color does not require the issuance of a certificate of preservation. Application of all forms of siding, including aluminum, vinyl, asphalt, or other forms does constitute a material change and requires a certificate of preservation.
- (b) *Failure to provide ordinary maintenance or repair.* Owners of designated "historic properties" or properties located within a designated "historic district" shall be required to maintain their property in accordance with existing laws of the City of Cartersville which provide for the same. The Cartersville Historic Preservation Commission does not have the power to require special maintenance of historic properties or historic districts. The commission may, however, request the appropriate city officials to take action on properties being neglected or not maintained.
- (c) *Affirmation of existing building and zoning codes.* Nothing in this chapter shall be constructed as to exempt property owners from complying with existing city building or zoning codes, nor to prevent any property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.

(Ord. No. 19-01 § V, 5-17-01; Ord. No. 47-04, § 7, 6-17-04)

**Sec 9.25-36. Design guidelines.**

- (a) *Identification of design standards.* Concurrent with, or immediately following, the designation of any historic district, site, object, building, structure, or work of art, the historic preservation commission shall recommend to the city council a set of "design standards." The standards are intended to identify the characteristic features of the designation that will be used in determining the compatibility of new construction or alteration of size, location, materials, style, rhythm, and any other quality deemed by the historic preservation commission to contribute to the character of the historic property. Standards will be used in evaluating the appropriateness of a project for both contributing and non-contributing properties and structures.
- (b) *Procedure for adoption of design standards.* The historic preservation commission shall draft and recommend the proposed design standards or amendments to the standards, to the city council at a public hearing. Adoption of the standards or revisions to the standards by the city council may only be considered after the historic preservation commission's recommendation and following a public hearing as follows: The city council shall hold a public hearing on the adoption of the design standards or revisions to the standards. Notice of the hearing shall be published in at least three (3) consecutive issues in the legal organ newspaper within Cartersville, Georgia. All such notices shall be published not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing.
- (c) *Concurrent action.* The historic preservation commission may recommend, and the city council may consider and adopt, the design standards or revisions to the standards at the

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same public hearing and/or meeting as the designation of the corresponding historic district or historic property. The legal notices for the guidelines and designated area(s) may be combined into one (1) notice if the hearings are to be combined.

(Ord. No. 19-01, § VI, 5-17-01; Ord. No. 02-20, § 1, 3-5-20)

### **Sec. 9.25-37. Definitions.**

*Certificate of preservation* means a document representing 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. This is also referred to as a certificate of appropriateness in O.C.G.A. § 44-10-20 et seq. and the terms are interchangeable under the ordinance.

*Design guideline* or *guideline* means a recommendation by the historic preservation commission that adheres to traditional and commonly recognized historic preservation practices. A guideline is not a requirement.

*Design standard* or *standard* means a design requirement for a certificate of preservation but may be varied or deemed not applicable by the historic preservation commission.

*Exterior architectural features* means the architectural style, general design and arrangement of the exterior of a building or other structure, including, but not limited to building material and the type and style of windows, doors, signs, and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

*Exterior environmental features* and *landscape features* means all those aspects of the landscape or the development of a site which affect the historical character of the property, i.e., walls, fences, paving, walks, drives, etc., but not plants, trees, or flowers of any kind.

*Historic*, for the purposes of historic preservation, means a historic structure is one that is fifty (50) years of age or older. A historic structure may be contributing or non-contributing.

*Historic district* means a geographically definable area which contains structures, buildings, objects, sites, works of art, or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the commission.

*Historic property* means an individual building, structure, site, object, or work of art which exhibits a special historical or architectural character as designated by the commission.

*Material change in appearance* means a change that will affect either the exterior architectural or environmental features of a historic property or any buildings, structure site, object, landscape feature or work of art within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape, or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location or design of advertising visible from the public right-of-way on any historic property; or

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- (5) The erection, alteration, restoration, or removal of any building, structure, object, or work of art within a historic property, including walls, fences, steps, and pavements or other appurtenant features.

(Ord. No. 19-01, § VII, 5-17-01; Ord. No. 47-04, § 8, 6-17-04; Ord. No. 02-20, § 2, 3-5-20)

**Sec. 9.25-38. Penalty provisions.**

Violation of any provisions of this chapter shall be punished in the same manner as provided for punishment of violations of other validly enacted ordinances of the City of Cartersville.

(Ord. No. 19-01, § VIII, 5-17-01)

**Secs. 9.25-39—9.25.50. Reserved.**