

The Georgia Certified Local Government Program

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**APPLICATION AND PROCEDURES**

**“Promoting the Preservation and Use of Historic Places for a Better Georgia”**

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## TABLE OF CONTENTS

I.	Introduction.....	5
II.	Requirements and Process for Certification.....	7
	A. Eligibility .....	8
	B. Minimum Requirements .....	8
	1. “Enforce State or Local Legislation for the Designation and Protection of Historic Properties.” .....	8
	2. “Establish an Adequate and Qualified Historic Preservation Review Commission by State or Local Legislation.” .....	9
	3. “Maintain a System for Survey and Inventory of Historic Properties.” .....	11
	4. “Provide for Adequate Public Participation in the Local Historic Preservation Programs Including the Process of Recommending Properties for Nomination to the National Register of Historic Places.” .....	12
	5. “Satisfactorily Perform the Responsibilities Delegated to it Under the Act.” .....	13
	C. Process for Certification .....	13
	D. Participation in the National Register Nomination Process .....	15
	E. Monitoring and Assessment of Performance .....	17
	F. Decertification .....	18
III.	Transfer of Historic Preservation Funds to Certified Local Governments .....	20
	A. General Information and Conditions for Eligibility .....	21
	B. Minimum Administrative Requirements .....	22
	C. Eligible Projects .....	24
	D. Selection Criteria .....	25
	E. Grant Cycle .....	25

IV.	The Georgia Historic Preservation Act _____	27
V.	Attachments	
A.	Application for Certification in the CLG Program _____	38
B.	Historic Preservation Commission Member Resume Form _____	41
C.	Sample Letter of Request for Certification from Chief Elected Official _____	42

# Chapter I

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## **INTRODUCTION**

# The Georgia Certified Local Government Program

## INTRODUCTION

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Since its initial enactment in 1966 and through several amendments, the National Historic Preservation Act, as amended (16 U.S.C. 470 *et seq*), has provided the statutory framework for the national historic preservation partnership. Federal, state, tribal, and local governments have well-defined and significant roles in the identification, evaluation, designation and protection of historic and prehistoric properties. Under the National Historic Preservation Act, the role of “certified local governments” in the partnership involves, at minimum, (1) responsibility for review and approval of nominations of properties to the National Register of Historic Places, and (2) eligibility to apply to the State Historic Preservation Officer for matching funds reserved for “certified local governments.” In order to become and remain certified, a local government must meet several requirements; these include having enacted a historic preservation ordinance and the appointment of a qualified historic preservation commission. The 1980 Act directs the State Historic Preservation Officer, who in Georgia is the Commissioner of the Department of Natural Resources, and the Secretary of the U.S. Department of Interior to certify local governments to participate in the partnership. This document outlines how that partnership works in Georgia.

Prior to April 8, 1980, local governments were able to enact preservation ordinances as part of their zoning authority. However, on that date, the Georgia Historic Preservation Act was signed into law specifically authorizing minimum standards for the creation and operation of local preservation commissions. Georgians now have a framework for developing and implementing local preservation policy. The procedures for certifying local governments contained herein reflect the Georgia Historic Preservation Act and its use, in light of federal legislation, in evaluating local ordinances and local commissions.

The National Historic Preservation Act and its implementing regulations (36 CFR 61) require each state to establish its own process and guidelines for certifying local governments. The Historic Preservation Division began the process in the spring of 1983 by consulting with local governments, local commissions and other persons and groups interested in preservation. Workshops were conducted in June of 1983 in Atlanta, and in March of 1984 in Macon, specifically for local commissions. Information on the Certified Local Government program was distributed. The 1984 workshops resulted in the creation of the Georgia Alliance of Preservation Commissions, a private, non-profit organization. Through the initial reactions to the program and through an ongoing process of assessing local needs and evaluating existing ordinances and commissions in Georgia, these procedures were developed.

These procedures have been updated and expanded to reflect changes in federal law and the state historic preservation program. Specific provisions relating to timeframes and the monitoring and evaluation process were clarified and expanded. The procedures have been updated to. Most significantly, CLG reports will now be required once every four calendar years. Please read the new procedures carefully to determine how these changes will affect your Certified Local Government.

## Chapter II

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# **REQUIREMENTS AND PROCESS FOR CERTIFICATION**

## **II. A. ELIGIBILITY**

Any local government which meets the criteria set forth in this document is eligible for certification.

The National Historic Preservation Act, as amended (16 U.S.C. 470 *et seq*) contain five broad standards that must be met by a local government seeking certification. The local government must:

1. Enforce appropriate state or local legislation for the designation and protection of historic properties.
2. Establish an adequate and qualified historic preservation review commission by local legislation.
3. Maintain a system for survey and inventory of historic properties.
4. Provide for adequate public participation in the local historic preservation program, including the process of recommending properties to the National Register of Historic Places.
5. Satisfactorily perform the responsibilities delegated to it under the Act.

The minimum requirements for certification of local governments in Georgia are defined and amplified below.

## **II. B. MINIMUM REQUIREMENTS**

1. “ENFORCE APPROPRIATE STATE OR LOCAL LEGISLATION FOR THE DESIGNATION AND PROTECTION OF HISTORIC PROPERTIES.”

In addition to the federal requirements, each local government must adopt and enforce a historic preservation ordinance for the designation and protection of historic, prehistoric resources.

- a. Historic preservation ordinances adopted before April 8, 1980 (date of the enactment of the Georgia Historic Preservation Act) must provide a mechanism for the designation and protection of historic properties and in purpose be substantially consistent with the Georgia Historic Preservation Act as amended (O.C.G.A., T.44 CH.10, Art. 2, attached).
- b. Historic preservation ordinances adopted after April 8, 1980 must be consistent with the Georgia Historic Preservation Act (O.C.G.A, T. 44, Ch. 10, Art. 2, attached).

2. “ESTABLISH AN ADEQUATE AND QUALIFIED HISTORIC PRESERVATION REVIEW COMMISSION BY STATE OR LOCAL LEGISLATION.”

Each local government must have a historic preservation commission with a minimum of three (3) members.

- a. All members of the Commission must have demonstrated special interest, competence or knowledge in historic preservation. To the extent that such professionals are available in the community, Commission members must be appointed from the disciplines of architecture, history, architectural history, planning, archaeology or other historic preservation related disciplines, such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, folklore, curation, conservation, real estate, law, or landscape architecture. As part of their work in a particular discipline, professionals must be positively involved in historic preservation through the active support and use of recognized preservation techniques and strategies. For example, a banker with experience in federal housing or loan programs targeted to historic neighborhoods might be an appropriate commission member. Commission members must be appointed by the chief elected official of the jurisdiction. If unable to meet the professional membership requirements, the local government must demonstrate in writing how it has made a reasonable effort to appoint commission members from these professional disciplines.
- b. The Commission’s geographic area of authority must coincide with the boundaries of the local government’s jurisdiction.
- c. The responsibilities of the Commission must be complementary to and coordinated with those of the Historic Preservation Division of the Department of Natural Resources, the state historic preservation office in Georgia as enumerated in the National Historic Preservation Act, as amended, and with state and federal preservation standards, guidelines and regulation. They must include the authority to:
  - (1) Prepare and maintain an inventory of all property within its jurisdiction having the potential for designation as historic property;
  - (2) Recommend to the local governing body specific places, districts, sites, buildings, structures or works of art to be designated by ordinance as historic properties or historic districts;
  - (3) Review applications for Certificate of Appropriateness or some

other approval/review mechanism for locally designated historic resource protection and grant or deny the same in accordance with the provisions of the ordinance;

- (4) Conduct educational programs on historic properties located within its jurisdiction and on general historic preservation activities;
- (5) Make investigations and studies of matters relating to historic preservation including consultation with historic preservation experts;
- (6) Seek out local, state, federal and private funds for historic preservation, and make recommendations to the local governing body concerning the most appropriate uses of any funds acquired;
- (7) 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;
- (8) Participate in private, state, and federal historic preservation programs and with the consent of the local governing body enter into agreements to do the same.

d. In carrying out the above enumerated responsibilities, the local government may find it necessary to seek additional expertise outside its membership. For example, when a Commission reviews a National Register nomination for an archaeological site and the archaeology discipline is not represented on the Commission, the Commission must seek expertise in archaeology before rendering its decision. This requirement holds for review of National Register nominations as well as designations of local properties and other activities that are normally evaluated by a professional representing a specific discipline. This additional expertise can be obtained through:

- (1) the Commission's technical assistance/professional staff;
- (2) local government professional staff;
- (3) a qualified consultant;
- (4) The Regional Development Center;
- (5) federal, state, local or private preservation agencies or organizations; or
- (6) other adequately qualified sources as identified by the Commission and the local government.

Commissions may explore the possibility of sharing professional expertise

among several communities.

- e. Each Commission member and anyone serving the Commission in a technical assistance/professional staff capacity shall attend at least one informational or educational meeting per year pertaining to historic preservation. Such meetings may include those sponsored by the Historic Preservation Division, the National Trust for Historic Preservation, the Georgia Trust for Historic Preservation, the Georgia Alliance of Preservation Commissions, the National Alliance of Preservation Commissions, other University of Georgia programs, or a local preservation organization.
- f. The local government must designate a paid member of its staff or a person working under contract as a source of technical/administrative/professional assistance to be responsible for the operations of the Commission in keeping with the requirements of certification for participation in the Certified Local Government Program. The local government must specify the amount of time this person will devote to historic preservation activities. Although it is encouraged, the designated person need not have historic preservation as his or her sole responsibility, nor must the person have specific training or expertise in a preservation related field. The intent of this Georgia requirement is to ensure that the local government is capable of meeting its legal responsibilities related to historic preservation. The designated person could be the director or paid staff of the Commission, the planning director or a member of the planning staff, the zoning administrator, city or county manager, or another staff member as designated by the local government. This person could also be a planner or other staff member of a county, state, regional or private agency that provides services to the local government under the terms of the contract. This person will act as the liaison between the Historic Preservation Division and the Commission.
- g. The requirements for establishing a Commission that is eligible for certification in Georgia cannot be more stringent or comprehensive than the requirements for the Georgia National Register Review Board.

3. “MAINTAIN A SYSTEM FOR THE SURVEY AND INVENTORY OF HISTORIC PROPERTIES.”

Each Certified Local Government must prepare and maintain an inventory of all historic property within the boundaries of its jurisdiction. All inventory and survey data must:

- a. be readily integrated into the Historic Preservation Division’s

inventories, the statewide comprehensive historic preservation plan, and other appropriate state and local planning processes;

- b. follow guidelines for conducting local surveys, as approved by the Historic Preservation Division and shall not be inconsistent with the Secretary of the Interior's "Standards for Identification and Evaluation;"
- c. be recorded using the Georgia Historic Resources Survey Form as provided by the Historic Preservation Division, or on some other form approved by the Historic Preservation Division;
- d. be accessible to the public except when disclosure may cause significant invasion of privacy, risk harm to the historic resources, or impede the use traditional religious site by practitioners (the terms of this agreement may not apply to tribal lands);
- e. be updated periodically;
- f. be maintained in a safe and secure location; and
- g. be available through duplicate or original files at the Historic Preservation Division.

4. "PROVIDE FOR ADEQUATE PUBLIC PARTICIPATION IN THE LOCAL HISTORIC PRESERVATION PROGRAMS, INCLUDING THE PROCESS OF RECOMMENDING PROPERTIES FOR NOMINATION TO THE NATIONAL REGISTER OF HISTORIC PLACES."

- a. All meetings of the Commission must be publicly announced, be open to the public and have a previously advertised agenda. Commission meetings must occur at regular intervals; a commission must meet as often as necessary to complete its work in a timely fashion, no less than once a year. Public notice must be provided prior to any special meetings.
- b. Careful minutes of all decisions and actions of the Commission including the reasons for making the decisions must be kept on file and available for public inspection.
- c. All decisions of the Commission must be made in a public forum and applicants must be given written notification of the Commission's decision.
- d. The rules of procedure adopted by the Commission must be available for public inspection.
- e. During the process of reviewing properties for nomination to the

National Register, the Commission must provide opportunity for public comments as specified in the II.D, "Participation in the National Register Nomination Process," of these procedures.

5. "SATISFACTORILY PERFORM THE RESPONSIBILITIES DELEGATED TO IT UNDER THIS ACT."

The local government must satisfactorily perform the responsibilities listed in II.B.1-4 above and any others specifically delegated to it by the Georgia State Historic Preservation Officer. In addition, the local government must:

- a. Ensure that at least one member of the Commission, the person serving as Commission technical staff pursuant to II.B.2f of these procedures, or a representative appointed by the chief local elected official who has an ongoing relationship with the Commission, will attend an orientation/training session sponsored by the Historic Preservation Division or approved by the Historic Preservation Division as specified in II.B.2e each year; and
- b. Submit to the Historic Preservation Division a report of the activities of the Commission, when requested, not less than every four calendar years. The report shall include but is not limited to, such items as number of cases reviewed, historic district and property designations made, revised resumes of Commission members/staff, appointments to the Commission, attendance records and all minutes relating to the review of National Register nominations.

**II. C. PROCESS FOR CERTIFICATION**

1. A local government may request certification from the Historic Preservation Division at any time during the year. The request for certification must include:
  - a. a Certified Local Government application signed by the chief local elected official containing assurances that the local government will fulfill all the standards for certification outlined in this document;
  - b. the name, position, address, and telephone number of the person serving as liaison between the Historic Preservation Division and the Commission as described in II.B.2f of these procedures;
  - c. a copy of all local historic preservation ordinances;
  - d. a list and accompanying maps of any areas designated by local

ordinance as historic districts or any individual historic properties under the purview of the Commission; and

- e. resumes for each of the members of the Commission including, where appropriate, credentials or demonstrated expertise related to historic preservation.
2. The Historic Preservation Division will respond to the chief local elected official within sixty (60) business days of the receipt of an adequately documented Certified Local Government application.
3. Upon approval of request for certification, the Historic Preservation Division will enter into a written certification agreement with the local government. The agreement will specify those duties to be delegated to the local government and shall include:
  - a. the minimum federal responsibilities as outlined in II.A. of the procedures;
  - b. any responsibilities delegated to all CLGs in Georgia; and
  - c. any additional responsibilities pre-arranged in consultation with the local government.
4. After having determined that a CLG application meets all the requirements in these state procedures, the Historic Preservation Division will forward a request for concurrence to the National Park Service. The request will include the following:
  - a. A copy of the signed certification agreement between the CLG and the Historic Preservation Division.
  - b. A certification by the Historic Preservation Division that the CLG application is complete and the locality meets the requirements for CLG status. The certification must be in the form of a completed review checklist or other review document. The checklist or review document must be signed and dated by the State Historic Preservation Officer or the state CLG coordinator who completed the checklist while reviewing the application.
5. If the request for concurrence cannot be affirmed as submitted, the National Park Service will notify the Historic Preservation Division prior to fifteen (15) business days after receipt of the request. The National Park Service shall provide written notice of what is necessary for the request for concurrence to be approved.

6. A Certification Agreement is not effective until it is signed by the chief elected official and the State Historic Preservation Officer, and concurred in writing by the National Park Service. The effective date of certification is the date of National Park Service concurrence. When the NPS concurs with the Historic Preservation Division recommendation for certification, the NPS will notify the Historic Preservation Division in writing, and send a copy of that letter to the CLG.

## **II. D. PARTICIPATION IN THE NATIONAL REGISTER NOMINATION PROCESS**

In accordance with the National Historic Preservation Act, as amended, the certified local government will participate in the National Register nomination process in the following way:

1. The Historic Preservation Division will receive requests for National Register nominations. The requests must be made using forms provided by the Historic Preservation Division.
2. Upon receipt, if the property proposed for nomination lies within the jurisdiction of a certified local government, the Historic Preservation Division will inform the chief local elected official and the Commission of the request.
3. The chief local elected official and the Commission are encouraged to provide preliminary comments, within sixty (60) business days, to the Historic Preservation Division concerning the property's eligibility for listing in the National Register and to bring to their attention any local planning information relating to the property being proposed for nomination.

Although the official opinion and formal comments of the certified local government shall be requested later, the opportunity for preliminary comments helps facilitate coordination between local governments and the Historic Preservation Division so as to expedite the nomination process.

4. Within sixty (60) business days of receipt of a nomination request the Historic Preservation Division will determine that:
  - a. the property meets the criteria for listing in the National Register and the documentation is complete; or
  - b. the property may meet the criteria for listing in the National

Register but the documentation is incomplete; or

- c. the property does not meet the criteria for listing in the National Register.
  - a. The Historic Preservation Division will then advise the applicant, the chief local elected official and the Commission of its determination. Appeal of this determination is provided for in 36 CFR 60.12.
5. A completely documented nomination request for a property which appears to meet the National Register criteria will be scheduled for a quarterly state review board meeting in accordance with the Historic Preservation Division's established scheduling priorities.
6. Approximately sixty (60) business days before the scheduled review board meeting, as part of the regular National Register notification process, the chief local elected official and the Commission will be notified of the proposed nomination. Notification will include a summary of the nomination materials.
7. Within thirty (30) business days of notification, the chief local elected official and the Commission must separately transmit to the Historic Preservation Division their opinions, as to whether or not the property meets the criteria for listing in the National Register. This opinion shall constitute formal comment by the certified local government and may be as simple as an affirmative statement that, in their opinion, the property meets the criteria for listing in the National Register. However, if in their opinion the property does not meet the criteria, reasons for that opinion should be stated.
8. If there is no response from the chief local elected official and the Commission within thirty (30) business days, the nomination process continues.
9. During the thirty (30) day period, the certified local government must provide a reasonable opportunity for public comment. The measures to be taken by each certified local government will be determined by mutual agreement between the local government and the Historic Preservation Division.
10. In the event that both the Commission and the chief local elected official determine that the property does not meet the criteria for listing in the National Register and recommend the property not be considered for nomination, the Historic Preservation Division shall take no further action on the proposed nomination. However, if a written appeal is filed by a

third party the nomination process must continue.

11. If the proposed nomination is approved by the Georgia National Register Review Board, the State Historic Preservation Officer will sign the nomination forms. The Historic Preservation Division will then transmit the nomination with any formal comments and opinions from the certified local government, together with any appeal that may have been filed, to the Keeper of the National Register.
12. The Historic Preservation Division may by mutual agreement with the certified local government delegate further responsibilities for National Register nominations, such as property owner notification, public meetings, and preparation of the National Register documentation materials to the local government. Any responsibility of the Historic Preservation Division may be delegated except the authority to review and nominate properties directly to the National Register.
13. The above noted CLG notification procedures do not apply where a Federal agency nominates a property under its ownership or control. Federal agencies should, however, be encouraged to coordinate their nominations with CLGs.

## **II. E. MONITORING AND ASSESSMENT OF PERFORMANCE**

Each certified local government must perform the duties as specified in the certification agreement. The Historic Preservation Division will conduct a periodic review, at least once every four calendar years. Continuous monitoring of the activity of the certified local government ensures that the local government is fulfilling the requirements as stated in the certification agreement. The Historic Preservation Division will assure that the local government's duties are consistent with and coordinated with priorities for the identification, evaluation and protection of historic properties within the comprehensive state preservation planning process. The Historic Preservation Division will assess performance in the following ways:

1. The Historic Preservation Division will review the report submitted by the certified local government, as outlined in II.B.5 of these procedures.
2. The Historic Preservation Division may conduct on-site program evaluations, including attending any scheduled Commission meetings.

3. The certified local government shall make available to the Historic Preservation Division, upon request, all relevant records and material such as minutes, public announcements, issued/denied Certificates of Appropriateness, etc.
4. The certified local government must have at least one representative attend a training session during the year sponsored by the Historic Preservation Division as called for in II.B.5a of these procedures.
5. The periodic review shall include an assessment of the fiscal management of any Historic Preservation Fund monies awarded as a Certified Local Government grant to the local government.
6. The procedures for CLG monitoring and evaluation will be:
  - a. Complete an evaluation report within sixty (60) business days of report form being mailed to CLG contact
  - b. inform the Historic Preservation Division of the Department of Natural Resources of any changes to any of the following:
    - (1) composition of commission
    - (2) local designations
    - (3) local ordinances
  - c. The Historic Preservation Division of the Department of Natural Resources will evaluate the report along with other pertinent material and respond to the CLG if the local government's performance is inadequate, ways of improving performance, and shall stipulate a time frame in which improvements are to be made.

**II. F. DECERTIFICATION**

1. If the Historic Preservation Division's evaluation of the certified local government indicates that the certified local government is not fulfilling its requirements as stated in the certification agreement and these procedures, the Historic Preservation Division will document that assessment and delineate for the certified local government ways in which to improve its performance. The certified local government will have a period specified by the Historic Preservation Division of generally not less than thirty (30) business days to implement improvements.
2. At the end of the specified period, if the Historic Preservation Division determines that sufficient improvement has not occurred, a

recommendation to decertify the certified local government will be made to the Secretary of the Interior citing specific reasons for the recommendation and a copy of the CLGs letter as enclosure. The Secretary will have thirty (30) business days to object to a decertification request.

3. If the local government is decertified by the Secretary of the Interior, the Historic Preservation Division may terminate any financial assistance in accordance with the *Historic Preservation Fund Grants Manual*.
4. The certified local government may petition the Historic Preservation Division to be decertified voluntarily and without prejudice at any time.
5. If a local government wishes to become recertified, the process must be completed again.

## Chapter III

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# **TRANSFER OF HISTORIC PRESERVATION FUNDS TO CERTIFIED LOCAL GOVERNMENTS**

### **III. A. GENERAL INFORMATION AND CONDITIONS FOR ELIGIBILITY**

A certified local government (CLG) as defined under the National Historic Preservation Act, as amended (16 U.S.C. 470 *et seq*), and approved through the process outlined in Part II of these procedures is eligible to apply for grants made available from at least ten percent of the State of Georgia's annual Historic Preservation Fund (HPF) appropriation. The ten percent share is specifically reserved for certified local governments. At such time as Congress may appropriate more than \$65 million to the annual HPF State appropriations, one half of the excess shall also be transferred to the CLGs according to procedures to be provided by the Secretary of the Interior. What follows are the procedures for allocating these grant funds to certified local governments in Georgia.

1. All approved certified local governments are eligible to receive funds from the certified local government share of Georgia's total annual HPF award. However, the Historic Preservation Division is not required to award funds to all governments that are eligible to receive funds.
2. The intent of the certified local government grants is to use HPF assistance to augment rather than replace existing local commitment to historic preservation activities. The uses of such funds must be consistent with the state comprehensive preservation planning process. The Historic Preservation Division will attempt to distribute the monies among maximum numbers of eligible local governments that can produce measurable results and shall attempt a reasonable distribution between urban and rural areas of the state and shall ensure that no CLG will receive a disproportionate share of the allocation.
3. Projects will be selected for funding through a competitive application process. The amount awarded to any applicant must be sufficient to produce a specific result. The funds must be sufficient to generate effects directly as a result of the grant to the local government. The requirement for producing measurable results may not be waived for otherwise eligible applicants.
4. The awarding of HPF monies to certified local governments is a component of the established Survey and Planning (S & P) and Acquisition and Development (A & D) subgrant programs as administered by the Historic Preservation Division. The standard S&P and A & D applications for Historic Preservation Fund grants must be used to apply for certified local government subgrants. In doing so it is possible to supplement CLG projects within the established S & P and A & D subgrant program.

### **III. B. MINIMUM ADMINISTRATIVE REQUIREMENTS**

1. Local governments receiving funds from the CLG share in Georgia will be considered subgrantees of the state.
2. CLG subgrants must comply with all federal, state and departmental regulations as developed by the Historic Preservation Division for participation in the regular S & P and A & D subgrant program.
3. A local government receiving CLG funds in Georgia must:
  - a. Maintain adequate financial management systems which shall be:
    - (1) in accordance with the standards specified in OMB Circular A-102,
    - (2) Attachment G, "Standards for Grantee Financial Management systems;" and
    - (3) auditable in accordance with the General Accounting Office's "Standards for Audit of Government Organization, Programs, Activities, and Functions."
  - b. Adhere to all requirements of the "Historic Preservation Fund Grants Manual".
    - (1) Indirect costs may be charged as part of the CLG grant only if the CLG subgrantee meets the requirements of the Manual;
    - (2) Unless the CLG subgrantee has a current indirect cost rate approved by the cognizant Federal agency, only direct costs may be charged.
  - c. Adhere to any requirements mandated by the Congress regarding the use of such funds.
  - d. Properly account, through financial audit, for CLG subgrants in accordance with OMB Circular A-133, "Audit Requirements."
4. Subgrants awarded to certified local governments must be matched on a 60% federal - 40% local basis and are reimbursable. CLG grants cannot be applied as matching share for other federal grants.

5. All publications, studies, reports, presentations, films, exhibits or other material prepared with grant assistance must acknowledge federal aid substantially as follows:

*This publication has been financed in part with federal funds from the National Park Service, U.S. Department of the Interior, through the Historic Preservation Division of the Georgia Department of Natural Resources. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior or the Georgia Department of Natural Resources, nor does the mention of trade names, commercial products or consultants constitute endorsement or recommendation by these agencies. This program received Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, gender or disability in its federally-assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office for Equal Opportunity, National Park Service, 1849 C Street, NW, Washington, DC 20240.*

Publicity for the project must acknowledge federal and state assistance. Consistent failure to acknowledge federal assistance may result in termination of the grant-in-aid.

6. A grant contract detailing local government and Historic Preservation Division responsibilities and describing the project work, costs, and project period will be executed between the Georgia Department of Natural Resources and the certified local government. The Historic Preservation Division requires that all grant recipients prepare formal contracts with any consultants or contractors they use and that the process of consultant selection and copies of consultant contracts be reviewed by the Historic Preservation Division.
7. At the conclusion of the project period, a completion report detailing activities undertaken and project results will be required. Appropriate Historic Preservation Division staff will work closely with the certified local governments during the project period to assure compliance of project work to professional standards and administrative requirements.

### **III. C. ELIGIBLE PROJECTS**

1. Projects funded with CLG subgrants must be activities that are eligible for Historic Preservation Fund assistance.
2. Eligible grant activities that can be funded through the S & P subgrant program for CLGs include:
  - a. Historic resource field surveys for areas not previously surveyed, areas partially surveyed or for areas that require an update to an existing survey.
  - b. National Register nominations for historic districts or multiple resource areas, nominations for archeological sites, or amendments to existing districts or multiple resource areas. Nominations for individual properties are not eligible.
  - c. Archaeological surveys or data collection, of a non-site specific nature that will lead to the addition of information that will augment the body of archaeological data.
  - d. Comprehensive preservation planning grant activities including the formulation of architectural guidelines, reevaluation and strengthening of local historic preservation ordinances, and preservation plans.
  - e. Innovative/Demonstrative projects which address a particular preservation problem or concern, but which do not fall under one of the other categories; for example, specific technical problems, information and education activities.
3. Eligible grant activities that can be funded through the A & D subgrant program for CLGs include:
  - a. Predevelopment projects such as site-specific architectural, engineering, or historic resource studies, or plans and specifications.
  - b. Development projects such as rehabilitation or restoration of National Register-listed properties.
4. Particular or unusual local needs of certified local governments will be considered in assessing project eligibility.

### **III. D. SELECTION CRITERIA**

1. Information on the selection criteria, rating system and other aspects of the selection process will be included in the grant application material and made available to local governments at least thirty (30) business days before the application deadline.
2. Applications will be reviewed and recommended for funding by the Historic Preservation Division. Reviews will be based on established selection criteria and on an established rating system which judges the adequacy of the project planning documentation, the needs of the project in terms of state priorities, general project administration, appropriate methodology and distribution among types of projects. Projects producing professional, well-planned results, using accepted state and federal techniques, are expected.
3. Applications will be scored according to staff evaluations based on a point system. The point system may vary depending on federal and state priorities, and needs for the fiscal year.
4. Applications will be recommended for funding based on their ranking from the grant criteria, representation of a particular type of project, geographic distribution, or other factors, as appropriate in any given fiscal year. The Historic Preservation Division will make recommendations to the Commissioner of the Department of Natural Resources who will make the final selection.
5. The rationale for the applications selected and the amounts awarded will be available upon request.

### **III. E. GRANT CYCLE**

The following chronology provides an anticipated outline to assure timely project work activities and to maintain project eligibility for funding. Exact dates may vary from year to year based on the date of the federal allocation.

1. March 1
  - Applications submitted to Historic Preservation Division.
  - Incomplete or ineligible applications will be returned.
2. April 1
  - Recommendations for funding made by Historic Preservation Division.

3. April 15
  - Final approval of grants made by the Department of Natural Resources.
  - Recipients announced and notified.
4. June 1
  - Contracts are signed.
  - Actual project work begins.
5. June 1 - May 31 (12 month period)
  - Project work underway.
  - Historic Preservation Division monitors work ( on-going during grant period).
  - Partial reimbursements made (on-going during grant period).
  - Draft Reports reviewed.
6. August 15 (of following year)
  - Project work completed.
  - Historic Preservation Division final review.
  - Completion report processed.
  - Final reimbursement requests processed.

## Chapter IV

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# **THE GEORGIA HISTORIC PRESERVATION ACT**

Georgia Historic Preservation Act

**44-10-1 Chapter 10: Historic Preservation 44-10-1**

Article 1: Facade and Conservation Easements

Section:

- 44-10-1. Short Title
- 44-10-2. Definitions
- 44-10-3. Legislative purpose and intent
- 44-10-4. Acquisition by governmental bodies, etc.; nature and duration of easements
- 44-10-5. Form of instrument conveying easements; recording; assessment to reflect encumbrance; appeal

Article 2: Ordinances Providing for Historical Preservation

Section

- 44-10-20. Short title
- 44-10-21. Legislative purpose; intent
- 44-10-22. Definitions
- 44-10-23. Exemptions
- 44-10-24.1. Historic Preservation commission - Establishment or designation; number, eligibility, and terms of members
- 44-10-25. Same - Powers and duties
- 44-10-26. Designation by ordinance of historic properties or districts; required provisions; investigation and report; submittal to Department of Natural Resources; notice and hearing; notification of owners
- 44-10-27. Certificate of Appropriateness – when required; local or state actions
- 44-10-28. Same – Review of applications; procedure; approval; modification or rejection; negotiations for acquisitions; variances; appeals
- 44-10-29. Certain changes or uses not prohibited
- 44-10-30. Court action or proceedings to prevent improper changes or illegal acts or conduct
- 44-10-31. Violations of this article; penalties

**ARTICLE 2**  
**ORDINANCES PROVIDING FOR HISTORICAL PRESERVATION**

**44-10-20. Short Title**

This article shall be known and may be cited as the “Georgia Historic Preservation Act.” (Ga. L. 1980, p. 1723, section 1.)

44-10-21. Legislative purpose; intent.

The General Assembly finds that the historical, cultural, and aesthetic heritage of this state 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. Therefore, in order to stimulate the revitalization of central business districts in this state’s municipalities, to protect and enhance this state’s historical and aesthetic attractions to tourists and visitors and thereby promote and stimulate business in this state’s cities and counties, to encourage the acquisition by cities and counties of facade and conservation easements pursuant to Code Sections 44-10-1 through 44-10-5, and to enhance the opportunities for federal tax relief of this state’s property owners under the relevant provisions of the Tax Reform Act of 1976 allowing tax deductions for rehabilitation of certified historic structures, the General Assembly establishes a uniform procedure for use by each county and municipality in the state in enacting ordinances providing for the protection, enhancement, perpetuation, and use of places, districts, sites, buildings, structures, and works of art having a special historical, cultural, or aesthetic interest or value. (Ga. L. 1980, p. 1723, section 2.)

U.S. Code - The federal Tax Reform Act of 1976 referred to in this section is codified as 26 U.S.C.A. paragraph 191.

**44-10-22. Definitions**

As used in this article, the term:

(1) “Certificate of Appropriateness” means a document approving a proposal to make a material change in the appearance of a designated historic property or of a structure, site, or work of art located within a designated historic district, which document must be obtained from a historic preservation commission before such material change may be undertaken.

(2) “Commission” means a historic preservation commission created or established pursuant to Code Section 44-10-24.

(3) “Designation” means a decision by the local governing body of a municipality or county wherein a property or district proposed for preservation is located to designate such property or district as a “historic property” or as a “historic district” and thereafter to prohibit all material changes in appearance of such property or within such district prior to the issuance of a certificate of appropriateness by the historic preservation commission.

(4) “Exterior architectural features” means the architectural style, general

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

(5) "Historic district" means a geographically definable area, urban or rural, which contains structures, sites, works of art, or a combination thereof which:

(A) Have special character or special historical or aesthetic interest or value;

(B) Represent one or more periods or styles of architecture typical of one or more eras in the history of the municipality, county, state, or region; and

(C) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.

(6) "Historic preservation jurisdiction," in the case of a county, means the unincorporated area of the county; and, in the case of a municipality, such term means the area within the corporate limits of the municipality.

(7) "Historic property" means a structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of its value to the municipality, county, state, or region for one or more 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 person of historic or cultural significance to the municipality, county, state or region; or

(D) It is a 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.

(8) "Local governing body" means the elected governing body or governing authority of any municipality or county of this state.

(9) "Material change in appearance" means a change that will affect only the exterior architectural features of a historic property or of any structure, site, or work of art within a historic district and may include any one or more of the following:

(A) 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;

(B) Demolition of a historic property;

(C) Commencement of excavation;

(D) A change in the location of advertising visible from the public right of way on any historic property; or

(E) The erection, alteration, restoration, or removal of any building or other structures within a designated historic district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.

(10) "Person" includes any natural person, corporation, or unincorporated association. (Ga. L. 1980, p. 1723, section 3.)

#### **44-10-23. Exemptions.**

Cities or counties which have adopted ordinances relative to planning and zoning for historic purposes as of March 31, 1980, under authority granted by a local constitutional amendment or by any other means, including cities or counties which have subsequently replaced or amended in whole or in part such ordinances, shall not be required to comply with this article and are authorized to create and regulate historic districts, zones, or sites pursuant to their existing local historic preservation. (Ga. L. 1980, p. 1723, section 12).

#### **44-10-24. Historic preservation commission - Establishment or designation; number, eligibility, and terms of members.**

(a) The local governing body of a municipality or county electing to enact an ordinance to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts shall establish or designate a historic preservation commission. Such local governing body shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than three calendar years. A majority of the members of any such commission shall have demonstrated special interest, experience, or education in history or architecture; all the members shall reside within the historic preservation jurisdiction of their respective municipality or county except as otherwise provided by subsection (b) of this Code section; and all shall serve without compensation. In establishing such a commission and making appointments to it, a local governing body may seek the advice of any state or local historical agency, society, or organization.

(b) The local governing body of a county and the local governing body or bodies of one or more municipalities lying wholly or partially within such county may establish or designate a joint historic preservation commission. If a joint commission is established, the local governing bodies of the county and the municipality or municipalities involved shall determine the residence requirements for members of the joint commission. (Ga. L. 1980, p. 1723, section 4.)

#### **44-10-25. Same - Powers and duties.**

Any municipal, county, or joint historic preservation commission appointed or designated pursuant to Code Section 44-10-24 shall be authorized to:

(1) Prepare an inventory of all property within its respective historic preservation jurisdiction having the potential for designation as historic property;

(2) Recommend to the municipal or county local governing body specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts;

(3) Review applications for certificates of appropriateness and grant or deny the same in accordance with Code Section 44-10-28;

(4) Recommend to the municipal or county local governing body that the designation of any place, district, site, building, structure, or work of art as a historic

property be revoked or removed;

(5) Restore or preserve any historic properties acquired by the municipality or county;

(6) Promote the acquisition by the city or county governing authority of facade easements and conservation easements in accordance with Code Sections 44-10-1 through 44-10-5;

(7) Conduct an educational program on historic properties located within its historic preservation jurisdiction;

(8) Make such investigations and studies of matters relating to historic preservation as the local governing body or the commission itself may from time to time deem necessary or appropriate for the purposes of this article;

(9) Seek out state and federal funds for historic preservation and make recommendations to the local governing body concerning the most appropriate use of any funds acquired;

(10) Consult with historic preservation experts in the Historic Preservation Division of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.; and

(11) Submit to the Historic Preservation Division of the Department of Natural Resources or its successor a list of historic properties or historic districts designated as such pursuant to Code Section 44-10-26. (Ga. L. 1980, p. 1723, section 5 .)

**44-10-26. Designation by ordinance of historic properties or districts; required provisions; investigation and report; submittal to Department of Natural Resources; notice and hearing; notification of owners.**

(a) Ordinances adopted by local governing bodies to designate historic properties or historic districts shall be subject to the following requirements:

(1) Any ordinance designating any property as a historic property or any district as a historic district shall require that the designated property or district be shown on the official zoning map of the county or municipality adopting such ordinance or that, in the absence of an official zoning map, the designated property or district be shown on a map of the county or municipality adopting such ordinance and kept by the county or municipality as a public record to provide notice of such designation in addition to other notice requirements specified by this Code section.

(2) Any ordinance designating any property as a historic property shall describe each property to be designated, shall set forth the name or names of the owner or owners of the property, and shall require that a certificate of appropriateness be obtained from the historic preservation commission prior to any material change in appearance of the designated property; and

(3) Any ordinance designating any district as a historic district shall include a description of the boundaries of the district, shall list each property located therein, shall set forth the name or names of the owner or owners of each property, and shall require that a certificate of appropriateness be obtained from the historic preservation commission prior to any material change in appearance of any structure, site, or work of art located within the designated historic district.

(b) No ordinance designating any property as a historic property and no ordinance designating any district as a historic district nor any amendments thereto may be adopted by the local governing body nor may any property be accepted or acquired as historic property by the local governing body until the following procedural steps have been taken:

(1) The commission shall make or cause to be made an investigation and shall report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building, structure, or work of art proposed for designation or acquisition. This report shall be submitted to the Historic Preservation Division of the Department of Natural Resources, or its successor, which will be allowed 30 business days to prepare written comments concerning the report;

(2) The commission and the local governing body shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published at least three times in the principal newspaper of general circulation within the municipality or county in which the property or properties to be designated or acquired are located; and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All the notices shall be published or mailed not less than ten nor more than 20 business days prior to the date set for the public hearing; and

(3) Following the public hearing, the local governing body may adopt the ordinance as prepared, adopt the ordinance with any amendments it deems necessary, or reject the proposal.

(c) Within 30 business days immediately following the adoption of the ordinance, the owners and occupants of each designated structure, site, or work of art located within a designated historic district shall be given written notification of such designation by the local governing body, which notice shall apprise said owners and occupants of the necessity for obtaining a certificate of appropriateness prior to undertaking any material change in the appearance of the historic property designated or within the historic district designated. (Ga. L. 1980, p. 1723, section 6.)

#### **44-10-27. Certificate of Appropriateness - When required; local or state actions.**

(a) After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of the historic property or of a structure, site, or work of art within the historic district shall be made or be permitted to be made by the owner or occupant thereof unless and until application for a certificate of appropriateness has been submitted to and approved by the commission. Such application shall be accompanied by such drawings, photographs, or plans as may be required by the commission.

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

opportunity to comment. (Ga. L. 1980, p. 1723, section 7.)

**44-10-28. Same - Review of application; procedure; approval, modification, or rejection; negotiations for acquisitions; variances; appeals.**

(a) Prior to reviewing an application for a certificate of appropriateness, the commission shall take such action as may be reasonably required to inform the owners of any property likely to be affected materially by the application and shall give the 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.

(b) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance; architectural style; general design, arrangement, texture, and material of the architectural features involved; and the relationship thereof to the exterior architectural style and pertinent features of other structures in the immediate neighborhood.

(c) In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangement or uses having no effect on exterior architectural features.

(d) The commission shall approve or reject an application for a certificate of appropriateness within 45 business days after the filing thereof by the owner or occupant of a historic property or of a structure, site, or work of art located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission. Failure of the commission to act within the 45 day period shall constitute approval, and no other evidence of approval shall be needed.

(e) In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and the reasons therefore, 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 so desires, may make modification to the plans and may resubmit the application at any time after doing so.

(f) 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 an application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits; and, in such a case, no building permit shall be issued.

(g) Where such action is authorized by the local governing body and is reasonably necessary or appropriate for the preservation of a unique historic property, the commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise of the property or any interest therein.

(h) Where, by reason of unusual circumstances, the strict application of any provision of this article would result in exceptional practical difficulty or undue

hardship upon any owner of any specific property, the 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, however, that such variance, modification, or interpretation shall remain in harmony with the general purpose and intent of the provisions so that the architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will in its judgment best fulfill the purpose of this article.

(i) The commission shall keep a record of all applications for certificates of appropriateness and of all its proceedings.

(j) Any person adversely affected by any determination made by the commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the governing body of the county or municipality in whose historic preservation jurisdiction the property in question is located; and such governing body may approve, modify and approve, or reject the determination made by the commission if the governing body finds that the commission abused its discretion in reaching its decision. The ordinances adopted in conformity with Code Section 44-10-26 shall specify the procedures for the review of decisions of the commission by the governing body of the county or municipality involved. Appeals from decisions of the governing body made pursuant to this article may be taken to the superior court in the manner provided by law for appeals from a conviction for municipal or county ordinance violations (Ga. L. 1980, p. 1723, section 8.).

#### **44-10-29. Certain changes or uses not prohibited.**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property, which maintenance or repair does not involve a material change in design, material, or outer appearance thereof, nor to prevent any property owner from making any use of his property not prohibited by other laws, ordinances, or regulations. (Ga. L. 1980, p. 1723, section 9.)

#### **44-10-30 Court action or proceedings to prevent improper changes or illegal acts of conduct.**

The municipal or county governing body or the historic preservation commission shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of an ordinance adopted in conformity with this article, or to prevent any illegal act or conduct with respect to such historic property or historic district. (Ga. L. 1980, p. 1723, section 11.)

**44-10-31. Violation of this article; penalties.**

Violation of any ordinance adopted in conformity with this article shall be punished in the same manner as provided by charter or local law for the punishment of violations of other validly enacted municipal or county ordinances. (Ga. L. 1980, p. 1723, section 10.)

## Chapter V

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# **ATTACHMENTS**

# Application for Certification

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## GEORGIA CERTIFIED LOCAL GOVERNMENT PROGRAM

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### Instructions:

- Use official application form or follow application format if creating a new document. Feel free to attach additional pages.
- Submit two (2) complete sets of application materials. Make sure all forms are signed. Incomplete applications will be returned.

Mail both forms to:

**Historic Preservation Division  
Department of Natural Resources  
34 Peachtree St., NW Suite 1600  
Atlanta, GA 30303-2316**

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Local Government: \_\_\_\_\_ RDC: \_\_\_\_\_

County: \_\_\_\_\_ Congressional District: \_\_\_\_\_

Title/Name of Chief Elected Official: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

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Name of Historic Preservation Commission: \_\_\_\_\_

Name of CLG Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

HPC Meeting Place & Time: \_\_\_\_\_

HPC Chair: \_\_\_\_\_

**ATTACH ADDITIONAL PAGES AS NECESSARY**

1. Briefly describe how the membership requirements for historic preservation commissions as outlined in *Procedures: Georgia Certified Local Government Program*; II.B.2a, (pg. 10), have been satisfied. Be sure to address to what extent professionals are available in the community and the positive involvement in historic preservation of the professional members.

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2. Briefly describe your system for survey and inventory of local historic resources.

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3. Briefly describe how the local government intends to participate in the National Register Program and detail how public participation requirements will be carried out in the local government's review of National Register nominations.

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4. Briefly describe why you are seeking certification.

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5. Are you planning to apply for CLG subgrants? Yes  No

If yes, briefly describe the purpose of the proposed CLG subgrant request.

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**Attach the following documents if applicable which are considered part of the application:**

6. A letter of request for certification from the chief elected official.  
(A sample letter is included in this application.)
7. Copies of all historic preservation ordinances that have been adopted by the local governing body.
8. A map(s) clearly defining the boundaries of all historic districts designated by local ordinance and/or showing the location of any locally designated historic property.
9. A sample copy of the historic resource survey and inventory form currently being used.
10. A copy of the rules of procedure for the historic preservation commission.
11. A copy of any guidelines for the decisions made by the historic preservation commission (In the absence of formal guidelines, include a written description of how the commission's decisions are made).
12. A sample public notice of the historic preservation commission's meeting.
13. A sample copy of the agenda and minutes of a commission meeting.
14. A sample notice of the commission's decision to an applicant.
15. A list of commission members including officers. Provide a Resume Form for each member (a sample form is included in this application).

*I certify that I have read **Procedures; Georgia Certified Local Government Programs** and agree to comply with all terms and conditions set forth therein.*

\_\_\_\_\_  
Chief Elected Official

\_\_\_\_\_  
Date

# RESUME FORM

Local Government: \_\_\_\_\_

Name of Commission: \_\_\_\_\_

Member's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, ST Zip: \_\_\_\_\_

Home Address (if different): \_\_\_\_\_

City, ST Zip: \_\_\_\_\_

Telephone: (Business) \_\_\_\_\_

(Residence) \_\_\_\_\_

Email Address: \_\_\_\_\_

Term of Membership: \_\_\_\_\_ Term Expires: (Date) \_\_\_\_\_

Occupation: \_\_\_\_\_

Professional Discipline: \_\_\_\_\_

(If satisfying a membership requirement)

Demonstrated interest in Historic Preservation (i.e., conferences attended, organizations, special training, courses taken, volunteer activities, or job experience)

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**SAMPLE LETTER OF REQUEST FOR CERTIFICATION  
FROM CHIEF ELECTED OFFICIAL**

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Dr. Ray Luce, Director and Deputy State Historic Preservation Officer  
Historic Preservation Division  
Georgia Department of Natural Resources  
34 Peachtree St, NW  
Suite 1600  
Atlanta, GA 30303-2316

Dear Dr. Luce:

The (City/County of) \_\_\_\_\_ hereby submits its application to become a Certified Local Government as provided for in the National Historic Preservation Amendments Act of 1980.

As the chief elected official of \_\_\_\_\_, I understand that it will be necessary for our local government to satisfy the minimum requirements for certification as spelled out in Georgia's Procedures for the Certified Local Government Program. Accompanying this letter are all the documents as requested on the application for certification. Should you need any additional materials or have any questions, please call (name) \_\_\_\_\_ at (telephone number) \_\_\_\_\_.

Sincerely,

(Name of Chief Elected Official)  
(Title)

Attachments