

ORDINANCE NO. 205

HISTORIC PRESERVATION ORDINANCE

AN ORDINANCE

AN ORDINANCE CREATING THE SCOTTSBORO HISTORIC PRESERVATION COMMISSION AND PRESCRIBING THE DUTIES AND POWERS THEROF, ESTABLISHING CERTAIN HISTORIC SCOTTSBORO DISTRICTS, AND CREATING AN ARCHITECTURAL REVIEW BOARD FOR SUCH DISTRICTS, AND PRESCRIBING THE DUTIES AND POWERS THEREOF.

WHEREAS, the City Council of the City of Scottsboro deems it necessary, in order to promote the general welfare and to effect and accomplish the protection, enhancement and perpetuation of such areas, sites, buildings and structures, streets, ways, and sections which represent or reflect elements of the city's cultural, social, economic, political and architectural history to insure that the exteriors of new buildings are designed and constructed, and old buildings altered, as harmonious parts of the city; to stabilize and improve property values; to foster civic beauty; to strengthen the local economy; to promote the use of historic districts for the education, pleasure and welfare of the citizens of the city; and to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided, that the Scottsboro Historic Preservation Commission and an Architectural Review Board be established to carry out these said purposes in areas and sites designated as "Historic Scottsboro Districts."

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCOTTSBORO, ALABAMA, AS FOLLOWS:

SECTION I. DEFINITIONS.

As used in this ordinance the following terms mean:

- A. district- a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.
- B. site- the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains a historical or archeological value regardless of the value of any existing structures.
- C. building- a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Buildings may refer to a historically related complex, such as a courthouse and jail or a house and barn.
- D. structure- a work made up of interdependent and inter-related parts in a definite pattern or organization. Constructed by man, it is often an engineering project large in scale.
- E. object- a material thing of functional, aesthetic cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- F. Historic Commission- Scottsboro Historic Preservation Commission
- G. Board- Architectural Review Board

SECTION II. SCOTTSBORO HISTORIC PRESERVATION COMMISSION.

A. Creation of Commission. There is hereby created a Scottsboro Historic Preservation Commission, hereinafter for abbreviation referred to as the "Historic Commission", with membership, duties and powers as herein designated.

B. Membership of Historic Commission.

1. The Historic Commission shall be composed of no less than seven members who shall be residents of the City of Scottsboro, Alabama.

2. Members shall be selected by the Mayor and the City Council for terms of office of four years provided that two of the initial members shall be appointed for two years, two for three years, and three for four years and subsequently members shall be appointed for terms of four years as terms expire.

3. Members of the Commission may be reappointed after their terms expire.

4. In the event of a vacancy occurring during the term of a member of the Historic Commission, the City Council shall make an interim appointment to fill out the unexpired term of such member.

5. The members of the Commission shall serve without compensation, but may be reimbursed by the commission for expenses necessarily incurred in the performance of their duties.

C. Rules and Regulations.

1. The Historic Commission shall elect from its membership a chairman and a vice-chairman who shall serve for terms of one year and who shall be eligible for re-election. The chairman shall preside over the Commission and shall have the right to vote and speak on all matters as other committee members. The vice-chairman shall, in the

absence or disability of the chairman, perform the duties of the chairman, and, if a vacancy shall occur during the term of office of the chairman, shall become chairman for the unexpired portion of the term of the chairman. In the absence or disability of both the chairman and the vice-chairman, the Commission shall, by a majority vote of those present, choose one of their members to perform the duties of the chairman.

2. The Historic Commission shall operate under a constitution as adopted by the Commission and approved by the City Council.

3. The Historical Commission shall select a secretary who shall keep a record of all resolutions, proceedings and actions of the Historic Preservation Commission. Such record shall be a public record.

4. The Historic Commission shall adopt rules for the transaction of its business. They shall in addition to other provisions, provide for the time and place of holding regular meetings. They shall provide for the calling of special meetings by the chairman or by at least two members of the Commission or by request of the City Council.

D. Purposes, Duties, and Powers.

1. Purposes. The Historic Commission shall have as its purposes:

a. the promotion of the general public welfare within its jurisdictional area, by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists and new residents, stimulating interest in architecture and design, educating citizens in American culture and heritage, and making the city a more attractive and desirable place in which to live;

b. the preservation and protection of areas, sites, buildings, and structures of historic and architectural value in the historic

districts; as defined in Section II of this Act, and the maintainance and improvement of the distinctive character of these districts;

c. the fostering and encouraging of the preservation, restoration and utilization of areas, sites, buildings and structures of historic districts;

d. the developement and promotion of historic districts as major tourist attractions of historic, architectural, and economic value, and in connection therewith, shall be authorized to provide for patio, sidewalk, or balcony type restaurants with outdoor dining facilities.

2. Duties.

a. It shall be the duty of the Historic Commission to exercise such powers as the Historic Commission shall deem necessary and fitting to carry out the above stated purposes.

b. It shall also be the duty of the Historic Commission to submit a written report to the Mayor and the City Council of the City of Scottsboro containing a review of the activities of the Historic Commission for the previous year and the proposed activities for the coming year (provided, however, that)

c. Nothing herein contained shall be construed to authorize the Historic Commission to obligate the City of Scottsboro to expend any of its funds without prior approval of the Mayor and the City Council of the City of Scottsboro.

3. Powers. Said Historic Commission shall have the power and authority in addition to all powers confered on it by the general law:

a. to purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage, acquire, and dispose of easements in any part of, and insure real and personal property of all kinds and descriptions;

b. to request, solicit, and accept gifts, donations, pledges, fees, bequests, devisis, loans, or appropriations of any kind and from any source whatever;

c. to set up a such lawful depository or depositories in the city as it may select, a "Revolving Fund for Historic Development" which shall be composed of the monies which may come into its hands from any source whatsoever and which shall be used for the furtherance of the objectives and purposes of the commission, and

d. the Commission may with the consent of the mayor and City Council employ such professional, office, technical and other personnel as may be necessary or desirable for the performance of the purposes of the commission in the most efficient manner.

e. The Mayor and the City Council of the City of Scottsboro may provide funds, equipment and accomodations for the Historic Commission's work.

f. The Commission shall be a non-profit governmental agency whose funds shall be used exclusively for public purposes. Such commission shall have a tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements, and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to income, admission, amusement, excise and ad valorem taxes.

SECTION III. DESIGNATION OF SITES AND DISTRICTS.

The Mayor and the City Council of the City of Scottsboro may, upon the recommendation of the Historic Commission designate as a Historic District or Historic site any area, site, building or structure within the City of Scottsboro having an overall atmosphere of either historic or architectural distinction or both.

A. Any person, group of persons or association may request the designation of a historic district or a historic site by submitting to the Secretary of the Historic Commission an application for such designation on a form furnished by the Historic Commission. The Historic Commission, in addition, may, on its own motion, initiate proceedings for designation of a historic district or historic site.

B. Notice that an application for designation is being considered shall be given to the owner of the parcel on which the proposed district or site is situated or which is part of the proposed district or site.

1. Such notice shall be served by the Secretary of the Historic Commission by certified mail, addressed to the owner or owners at his or her or their last known address or addresses as the same appears in the records of the Jackson County Tax Assessor's Office, or if there is no name on such records, such notice may be served by regular mail, addressed to "owner" at the street address of the property in question.

2. Said owner or owners shall have the right to confer with the Historic Commission prior to final action by the Historic Commission on the application.

3. The Historic Commission may, in addition, hold a public hearing on the proposed designation by giving notice of the place, date and time of the public hearing by publication in an official newspaper of general circulation at least three(3) days immediately prior thereto.

C. After such investigation by the Historic Commission as it deems necessary, but in no case more than ninety(90) days after the receipt of the application, or if the proceeding is initiated by the Historic Commission, no more than ninety(90) days after such initiation, the application for designation shall be approved or disapproved. Said

approval or disapproval shall be in writing and signed by the chairman of the Historic Commission and shall state the reasons for approval or disapproval. The approval may limit itself to the proposed district or site as described in the application or may include modifications thereof and approval as so modified. The written approval or disapproval shall be filed in City Hall in the office of the Community Development Co-ordinator and given to the Mayor and the City Council.

D. Any designation made by the Historic Commission pursuant to Subdivision C above shall be in full force and effect at the time of the written approval of designation by the Mayor and the City Council.

E. The Historic Commission, in making its decision, shall consider, among other factors, the relation of the designation to the Master Plan of the city, the zoning ordinances, projected public improvements, any plans for the renewal of the area involved, and other factors affecting the general welfare of the community.

SECTION IV. ARCHITECTURAL REVIEW BOARD.

A. Creation of Board. There is hereby created an Architectural Review Board, hereinafter for abbreviation referred to as the "Board", with membership, duties and powers as herein designated.

B. Membership of Board.

1. The board shall be composed of seven members and shall be selected and appointed by the Mayor and the City Council of the City of Scottsboro to serve overlapping terms.

2. Except for the first members, their terms shall be five years. The terms of the seven members first appointed shall be one for one year, two for two years, two for three years, one for four years, and one for five years; thereafter each of the members shall be appointed for a term of five years as terms expire.

3. Members of the board may be reappointed after their terms expire.

4. In the event of a vacancy occurring during the term of a member of the board, the Mayor and the City Council shall make an interim appointment to fill out the unexpired term of such a member.

5. The membership of the Board shall at all times include the Community Development Coordinator and at least one member of the Historic Commission. The remaining members shall be Historic Property Owners within the City of Scottsboro.

6. The members of the Board shall serve without compensation, but may be reimbursed for expenses necessarily incurred in the performance of their duties.

C. Rules and Regulations.

1. The Board shall select from its membership a chairman and such other officers as it may determine. The terms of the chairman and other officers shall be one year, with eligibility for re-election.

2. The Board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

3. The board shall meet within 15 days after notification by the Building Inspector of an applicant for a Certificate of Appropriateness or permit requiring action by the Board, and shall meet upon request of the Historic Commission. The meetings of the Board shall be open to the public, and a full and impartial hearing shall be granted.

4. The Board shall vote and announce its decision on any matter properly before it no later than 15 days after the conclusion of the hearing on the matter unless the time is extended by mutual agreement between the Board and the applicant.

5. The Board with the consent of the Mayor and the City Council, may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other civil employees of the City. The Board with the consent of the Mayor and the City Council, contract with architects and other professional and technical consultants for such services as ti may require.

6. The expenditures of the Board, exclusive of gifts and grants, shall be within the amounts appropriated for the purpose by the City Council, which may provide funds, equipment, and accomidations for the Boards's work.

D. Duties and Powers. The Board shall have as its purpose the preservation and protection of buildings and structures of historic and architectural value in the Historic Scottsboro Districts and maintenance of the distincitve character of those Districts. To this end, it shall be the duty of the Board to:

1. review all plans for the erection, alteration, repair , moving, or demolition of any building or structure which is located or is to be located in the designated historic districts.

2. It shall have the power to pass upon such plans before a permit for such activity can be granted by the Building Inspector.

3. The Board shall pass only on exterior features of a building of structure and shall not consider interior arrancements.

4. The board shall have the power to call in experts to aid in its deliberations.

5. The regulatory functions of the Board shall extend to any property,

however owned, including projects or work to be executed by or assisted by any governmental body or its officers, departments, agencies, authorities, or boards.

6. The Board shall have the authority to further promulgate regulations and set guidelines governing new construction, restorations, alterations, repairs, remodeling and additions that take place in the Historic Districts and to set material standards for the above listed activities.

SECTION V. PROCEDURE FOR REVIEW OF PLANS.

A. Permit Application. Application for review of plans for the erection, alteration, repair, moving, or demolition of any building or structure located in or to be located in a historic district shall be made to the Building Inspector. Every application shall be accompanied by plans for the proposed building or structure. As used herein, plans shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or structure, including proposed materials, textures and colors, and the plot plan or site layout, including fences, walks, terraces, planting, accessory buildings, sign lights and other appurtenances. Preparing lots for parking purposes in a historic district is considered a site improvement and requires a permit from the office of the Building Inspector and the approval of the Review Board. Such applications with plans shall be forwarded by the Building Inspector to the Board for review. Such applications will be forwarded to the Board only at such times as the above stated requirements have been met.

B. Review, Notification and Building Permit. The Board shall promptly review such plans and render its decision thereon as a written order to the Building Inspector. If the Board shall have approved the plans, a Certificate of Appropriateness shall be issued by the Board. If all other requirements of the City of Scottsboro have been met, the Building Inspector shall issue a permit for the proposed building. If the Board

shall have disapproved the plans, the Building Inspector shall not issue such permit. In a case where the Board has disapproved the plans, the Building Inspector shall furnish the applicant with a copy of the Board's written order together with a copy of any recommendations for changes necessary to be made before the Board will reconsider the plans. The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after so doing.

C. Failure to Review Plans. If no action upon plans properly submitted to the Board has been taken at the expiration of forty-five(45) days from the date of submission to the Board, unless otherwise agreed upon by the applicant and the Board, such plans shall be deemed approved and if all other requirements of the City of Scottsboro have been met, the Building Inspector shall issue a permit for the proposed building.

D. Conformance of Work with Certificate of Appropriateness. A Certificate of Appropriateness issued pursuant to this ordinance shall relate solely to proposed plans accompanying the application or otherwise submitted for official consideration prior to issuance of the certificate. It shall be unlawful to deviate from the said plans upon which issuance was granted unless an amended Certificate of Appropriateness shall be applied for and issued. Where City Certificates of Appropriateness are required, it shall be the duty of the Building Inspector's department to inspect regularly any work pursuant to the certificate to insure compliance. If work is not in accordance, the Building Inspector shall issue a stop order and work shall cease. No person, firm or corporation shall undertake any work on such project as long as such stop order is in effect.

SECTION VI. DECISIONS.

A. General Considerations. In passing on plans, the Board shall consider exterior design and appearance of the building including the front, sides, rear, and roof; height, materials, textures and colors; plot plan or site layout, including features such as walls, walks, terraces, planting, accessory buildings, signs, lights and other appurtenances and relation of the building to immediate surroundings and where applicable to the Historic District in which it is or is to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and is not restricted to those exteriors visible from a public street way or place. The Board shall not consider interior design or plan and it shall not impose on new construction any architectural style, traditional or modern, as a condition precedent to approval. The Board shall not exercise any control over land use, such as is governed by Zoning Ordinances or over construction, such as is governed by Building Codes.

A Certificate of Appropriateness shall be issued after review and approval where the Board finds any of the following:

1. In the case of a proposed alteration or addition to an existing building, that such alteration or addition shall not materially impair the architectural or historic value of the building.
2. In the case of a proposed new building, that such building shall not, in itself or by reason of its location on the site, materially impair the architectural or historical value of buildings on adjacent sites or in the immediate vicinity or be injurious to the general visual character of the Historic District in which it is to be located.

Proposals for new construction need not seek to duplicate specific styles and historic periods. What is to be sought is compatibility with existing

historic structures. Harmony with adjacent buildings and areas is to be sought through the appropriate use of scale, architectural elements, materials, colors, details, roofshapes, and treatment of grounds.

3. In the case of the proposed demolition of an existing building, that the removal of such building shall not be detrimental to the historic and architectural character of the Historic District, or to the historic heritage of the City of Scottsboro.

a. The Building Inspector's Department shall notify the applicant seeking a demolition permit that approval of the Board must be had before such permit can be issued.

b. Applicants, in applying to the Board for demolition approval, must submit post-demolition plans for the site including the relationship of such plans to the distinctive quality or public purpose of the district. If post-demolition plans include a replacement structure on the site, sketches or drawings in sufficient detail to convey the architectural design of the new building shall be submitted. The applicant must demonstrate the financial ability to insure that the proposed new construction shall take place within an agreed upon time period.

c. Balancing the interest of the City in preserving the integrity of the District and the interest of the owner of the property in the use of benefits of his property, approval of the plans for demolition is required by considerations of reasonable justice and equity; in the event the Board should conclude that the demolition of an existing building or structure would be detrimental to the historic or architectural character of the District or to the historic heritage of the City of Scottsboro and thus

detrimental to the general welfare, the Board shall issue an order postponing demolition for a period not to exceed six months. If the Board concludes that the demolition should be postponed, it shall, before issuing any final order with respect to such postponement, afford the applicant an opportunity to appear before the Board to offer any evidence he may desire to present concerning the proposed order. Within the period of postponement, The Board shall consult with the Scottsboro Historic Commission and others to ascertain what the City or other agency or organization may do to preserve such architecturally or historically valuable building and shall make recommendation to that effect to the Historic Commission and the City Council or otherwise cause the building to be preserved.

B. Change In Scope of Work.

1. Any change in the scope of the work subsequent to the issuance of a Certificate of Appropriateness shall require a new Certificate of Appropriateness for said changes.

C. Completion of Work, Expiration of Certificate of Appropriateness, or Permission to Demolish.

1. A certificate of Appropriateness for alterations, additions, and new construction shall expire one year after issuance and a new Certificate must be applied for. If, in one year after issuance of the Certificate, the project is not completed as shown on the Certificate, the project shall be deemed in violation of the Ordinance.

2. Permits to demolish, if not enacted within one year of the issuance of said permit, shall be void and a new application for demolition must be submitted to the Board.

D. Form of Decision.

1. Every decision of the Board, in passing upon plans for buildings located or to be located in Historic Scottsboro Districts, shall be in the form of a written order stating the finding of the Board, its decision and the reason thereof.

E. Recommendations for Changes.

1. The Board shall not disapprove any plans without giving its recommendations for changes to be made before the plans will be reconsidered. Such recommendations may be general in scope and compliance with them will qualify the plans for reconsideration by the Board.

F. Members Disqualified from Voting.

1. Any member of the Board who shall be employed to design or construct a building under consideration or who shall have any proprietary tenancy or personal interest in such building requiring approval of the plans by the Board shall be disqualified from voting thereon.

SECTION VII. APPEALS.

A. Procedure for Appeals.

1. Any person aggrieved by a decision of the Board may, within 15 days thereafter, appeal therefrom the Historic Commission. He shall file with the Board a written notice of such appeal, specifying the decision from which such appeal is made, and shall furnish a copy of such notice to the Historic Commission.

2. Any person thereafter aggrieved by the decision of the Historic

Commission on any such appeal may thereafter appeal therefrom the City Council of the City of Scottsboro. He shall file with the Board a written notice of such appeal, specifying the decision from which such appeal is made, and shall furnish a copy of such notice to the Historic Commission and the City Council of the City of Scottsboro.

B. Transcript of Proceedings.

1. Upon receiving notice of any such appeal the Board shall transmit a certified copy of the proceedings of the case to the appropriate commission or body to which the appeal is taken.

C. Trial of Appeals.

1. The issue shall be tried de novo by the Historic Commission, and thereafter by the appropriate governing body hearing the appeal.

SECTION VIII. ENFORCEMENT.

A. Upon petition of the Board, the office of the Building Inspector may restrain any construction, reconstruction, restoration, erection, replacement or demolition in violation of the Ordinance and may order the removal in whole or part of any exterior architectural feature permitted to exist in violation of this Ordinance and may order such reconstruction or restoration as may be necessary or desirable to redress any alteration or demolition in violation of this Ordinance.

SECTION IX. PENALTIES.

A. Any person, firm, or corporation violating any provision of this Ordinance

shall be fined not less than \$100.00 and not more than \$500.00 or imprisoned for not more than 60 days or both such fine and imprisonment, for each offense. Each day's continued violation shall constitute a separate offense.

SECTION X. SEVERANCE CLAUSE AND EFFECTIVE DATE.

A. Severability.

1. The requirements and provisions of this Ordinance are severable and if any section, paragraph, sentence or portion thereof be declared by any court of competent jurisdiction to be void, invalid, inoperative or otherwise inapplicable, the decision of the court shall not affect the validity of applicability of the Ordinance as a whole or any part thereof other than the part so held to be void, invalid, inoperative or otherwise inapplicable.

SECTION XI. OVERLAPPING OF CONTRADICTORY REGULATIONS.

Where the regulations imposed by any provision of this Ordinance conflict with comparable regulations imposed by any other ordinance, law, resolution, rule or regulation, the provisions of this ordinance shall govern.