

## Chapter 50

### HISTORIC PRESERVATION\*

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\*Cross reference—Buildings and building regulations, ch. 14.

State law reference—Historic preservation generally, Code of Ala. 1975, § 11-48-1 et seq.



## ARTICLE I. IN GENERAL

### Sec. 50-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certificate of appropriateness* means a document evidencing approval by the historic preservation commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

*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 of texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to such.

*Exterior environmental features* means all those aspects of the landscape or the development of a site which affect the historical character of the property.

*Historic district* means a geographically definable area designated by the board of commissioners as a historic district.

*Historic property* means an individual building, structure, site, object or work including the adjacent area necessary for the property appreciation thereof designated by the board of commissioners as a historic property.

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

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;

- (3) Commencement or excavation for construction purposes;
- (4) A change in the location or advertising visible from the public right-of-way; or
- (5) The erection, alteration, restoration or removal of any building or other structure within a historic property or district, including walls, fences, steps and pavements or other appurtenant features.

(Code 1977, § 11.1-2)

Cross reference—Definitions generally, § 1-2.

### Sec. 50-2. Purpose.

The board of commissioners declares it to be the purpose and intent of this chapter to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, landscape features and works of art having a special historical, cultural or aesthetic interest or value, in accordance with this chapter:

- (1) In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the city 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;
- (2) In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and thereby promote and stimulate business; and
- (3) In order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same.

(Code 1977, § 11.1-1)

### Sec. 50-3. Affirmation of building and zoning codes.

Nothing in this chapter shall be construed to exempt property owners from complying with existing city building and zoning codes or to

prevent any property owner from making use of his property not prohibited by other statutes, ordinances or regulations.  
(Code 1977, § 11.1-71)

**Sec. 50-4. Penalty.**

Violation of any section of this chapter shall be punished in the same manner as provided for punishment of violations of other validly enacted ordinances of the city.  
(Code 1977, § 11.1-81)

**Secs. 50-5—50-30. Reserved.**

**ARTICLE II. HISTORIC PRESERVATION COMMISSION\***

**Sec. 50-31. Created.**

There is created a commission whose title shall be "City of Dothan Historic Preservation Commission" (hereafter "commission" in this chapter).  
(Code 1977, § 11.1-11)

**Sec. 50-32. Composition; appointment; compensation; rules and standards.**

(a) The historic preservation commission shall consist of ten members. The mayor and each associate commissioner shall appoint one member each. The Downtown Group, the Dothan Landmarks Foundation and the Wiregrass Festival of Murals shall appoint one member each. All members shall have voting privileges. All members shall be residents of the city who have demonstrated experience in history, archaeology, planning, architecture or law or who shall be residents of a historic district.

(b) Members shall serve three-year terms and may be reappointed. No member shall receive compensation for service on the commission. However, members may be reimbursed for expenses incurred on behalf of the commission.

(c) Vacancies shall be filled by the persons nominated by the mayor and appointed by the

\*State law references—Commission generally, Code of Ala. 1975, § 11-68-2 et seq.; powers and duties generally, Code of Ala. 1975, § 11-68-5.

board of commissioners. Appointments for unexpired terms shall be for the unexpired term of the member replaced. Members appointed to fill unexpired terms may be reappointed.

(d) Members of the commission shall elect a chairperson, a vice-chairperson and such other officers as it may deem appropriate. The commission shall adopt rules and bylaws, copies of which shall be provided to the city clerk.

(e) The commission may adopt rules and standards without amendment of this chapter.

(f) Members may be removed for cause by the board of commissioners.  
(Code 1977, § 11.1-12)

**Sec. 50-33. Meetings, minutes and public participation.**

(a) All meetings of the historic preservation commission must be publicly announced and be open to the public. Commission meetings must occur at regular intervals. Public notice must be provided prior to any special meetings.

(b) Minutes of all decisions and actions of the commission, including the reasons for making these decisions, must be kept on file and available for public inspection.

(c) All decisions of the commission shall 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.  
(Code 1977, § 11.1-13)

**Sec. 50-34. Responsibilities of members.**

Each historic preservation commission member and anyone serving the commission in a technical/professional staff capacity is required to attend at least two informational or education meetings per year pertaining to historic preservation. Such meetings may include those sponsored

by the Alabama Historical Commission, Board of Advisors, the National Trust for Historic Preservation or a local preservation organization. One of the two should be a regional or statewide meeting.

(Code 1977, § 11.1-25)

#### **Sec. 50-35. Duties.**

The duties of the historic preservation commission shall be as follows:

- (1) Prepare and maintain an inventory of all property within the city having the potential for designation as historic property.
- (2) Recommend to the board of commissioners specific places, districts, sites, buildings, structures, objects or works of art to be designated by ordinance as historic properties or historic districts.
- (3) Review applications for certificates of appropriateness and grant or deny such in accordance with this chapter.
- (4) Recommend to the board of commissioners that the designation of any place, district, site, building, structure, objects or work of art as a historic property or as a historic district be revoked or removed.
- (5) Restore and preserve any historic properties acquired by the city or acquired by the commission.
- (6) Promote the acquisition by the city of facade easements and conservation easements.
- (7) Develop and conduct educational programs on historic properties located within the city and on general historic preservation activities.
- (8) Make such investigations and studies of matters relating to historic preservation including employment of historic preservation experts the board of commissioners or the commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.
- (9) Seek out local, state, federal and private funds for historic preservation and make

recommendations to the board of commissioners concerning the most appropriate uses of any funds acquired.

- (10) Perform historic preservation activities as the official agency of the city historic preservation program.
- (11) Employ persons, if necessary, to carry out the responsibilities of the commission.
- (12) Receive donations, grants, funds or gifts of historic property.
- (13) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in carrying out the purposes and responsibilities of the commission. The commission shall not obligate the city without prior consent.
- (14) Review and make comments to the Alabama Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places.
- (15) Investigate, survey and assist the Alabama Historical Commission in processing nominations or properties to the National Register of Historic Places.
- (16) Investigate, survey and assist the Alabama Historical Commission in processing applications for certification of historic properties for tax credits for preservation expenditures.
- (17) Participate in private, state and federal historic preservation programs and with the consent of the city, enter into agreements with such programs to perform historic preservation related functions.

(Code 1977, § 11.1-21)

#### **Sec. 50-36. Annual reports of activities.**

The historic preservation commission shall prepare and file with the board of commissioners and with the Alabama Historical Commission an annual report of its activities as required by the board of commissioners and the Alabama Historical Commission. The annual report shall cover the period from October 1 to September 30 and

shall be submitted in October of each year. The report shall include such items as the 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 the National Register nominations. The report shall document attendance at the orientation/training session as specified in section 50-38. (Code 1977, § 11.1-22)

**Sec. 50-37. Conflict of interest.**

At any time the historic preservation commission reviews a project in which a member of the commission has ownership or other vested interest, that member will be forbidden from presenting, voting or discussing the project, other than answering a direct question. (Code 1977, § 11.1-23)

**Sec. 50-38. Records of meetings.**

A public record shall be kept of the historic preservation commission's resolutions, proceedings and actions. (Code 1977, § 11.1-24)

**Sec. 50-39. Liaison with state historic preservation office.**

If the board of commissioners elects to become a certified local government, the board of commissioners shall designate a paid member to the city's staff or a person working under contract as a source of technical/administrative/professional assistance to be responsible for the operations of the historic preservation commission in keeping with the requirements of certification for participation in the certified local government program. At least one member of the commission or the person serving as the commission's technical staff or representative appointed by the mayor, who has an ongoing relationship with the commission, will attend the Alabama Certified Local Government orientation/training session sponsored by the Alabama Historical Commission each year. (Code 1977, § 11.1-26)

**Secs. 50-40—50-65. Reserved.**

**ARTICLE III. RECOMMENDATION AND DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES**

**Sec. 50-66. Preliminary research.**

(a) *Survey of local historical resources.* The historic preservation commission shall compile and collect information and conduct surveys of historic resources with the city.

(b) *Recommendation of districts and buildings for designation.* The historic preservation commission shall present to the board of commissioners recommendations for historic districts and properties.

(c) *Documentation of proposed designation.* Prior to the historic preservation commission's recommendation of a historic district or historic property to the board of commissioners for designation, the commission shall prepare a report consisting of:

- (1) A physical description;
- (2) A statement of the historical, cultural, architectural and aesthetic significance;
- (3) A map showing district boundaries and classification (i.e., historic, nonhistoric, intrusive) or individual properties therein or showing boundaries of individual historic properties;
- (4) A statement justifying district or individual property boundaries; and
- (5) Representative photographs.

(Code 1977, § 11.1-31)

**Sec. 50-67. Designation of historic district.**

(a) *Criteria for selection.* An historic district is a geographically definable area, which contains buildings, structures, sites, objects, landscape features and works of art or a combination thereof that:

- (1) Are associated with events that have made a significant contribution to the broad patterns of our history;
- (2) Are associated with the lives of persons significant in our past;

- (3) Embody the distinctive characteristics of a type, period or method of construction or represent a significant and distinguishable entity whose components may lack individual distinction; or
  - (4) Have yielded or may be likely to yield information important in prehistory or history.
    - (b) *Boundaries.* Boundaries of all historic districts shall be shown on a map to be entitled "Historic Districts and Properties of Dothan, Alabama." This map shall be maintained as a public record by the city engineer.
    - (c) *Evaluation of properties.* Individual properties within historic districts shall be classified as:
      - (1) Historic (contributes to the district).
      - (2) Nonhistoric (does not contribute but does not detract from the district).
      - (3) Intrusive (detracts from the district).
- (Code 1977, § 11.1-32)

**Sec. 50-68. Designation of historic property.**

(a) *Criteria for selection.* An historic property is a building, structure, site, object, work of art, including the adjacent area necessary for the property appreciation or use thereof, deemed worthy of preservation by reason of value to the city because the building, structure, site, object or work of art:

- (1) Is associated with events that have made a significant contribution to the broad patterns of our history;
  - (2) Is associated with the lives of persons significant in our past;
  - (3) Embodies the distinctive characteristics of a type, period or method of construction or that represents a significant and distinguishable entity whose components may lack individual distinction; or
  - (4) Has yielded or may be likely to yield information important in prehistory or history.
    - (b) *Location.* Locations of historic properties shall be shown on the historic districts and properties map of the city.
- (Code 1977, § 11.1-33)

**Sec. 50-69. Requirements for adopting ordinance for designation of historic districts and historic properties.**

(a) *Application.* Designations for adopting ordinance for designation of historic districts and historic properties may be proposed by the board of commissioners, the historic preservation commission or:

- (1) For historic districts, a historical society, neighborhood association or group of property owners may apply to the commission for designation;
- (2) For historic properties, a historical society, neighborhood association or property owner may apply to the commission for designation.

(b) *Required components of ordinance.* Any ordinance designating any property or district as historic shall:

- (1) List each property in a proposed historic district or describe the proposed individual historic property;
- (2) Set forth the name of the owner of the designated property or properties;
- (3) Require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of the designated property; and
- (4) Require that the property or district be shown on the historic districts and properties map of the city.

(c) *Public hearings.* The historic preservation commission shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three consecutive issues in the principal newspaper of local circulation, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten or more than 20 days prior to the date set for the public hearing. A notice sent via the United States mail to the last known owner of the property shown on the Houston County, Dale County or Henry County tax roll and a notice sent via

United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.

(d) *Recommendations on proposed designations.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the historic preservation commission within 15 days following the public hearing and shall be in the form of a resolution to the board of commissioners.

(e) *Board of commissioners' action on recommendation.* Following receipt of the historic preservation commission's recommendation, the board of commissioners may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary or reject the ordinance.

(f) *Notification of adoption of ordinance for designation.* Within 30 days following the adoption of the ordinance for designation by the board of commissioners, the owners and occupants of each designated historic property and the owners and occupants of each structure, site or work of art located within a designated historic district shall be given written notification of such designation by the board of commissioners, which notice shall apprise the owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the Houston County, Dale County or Henry County tax roll and a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.

(g) *Notification of other agencies regarding designation.* The historic preservation commission shall notify all municipal agencies within the city of the ordinance for designation.

(h) *Moratorium on applications for alteration or demolition while ordinance for designation pending.* If an ordinance for designation is being

considered, the historic preservation commission shall have the power to freeze the status of the involved property.

(Code 1977, § 11.1-34)

**Secs. 50-70—50-95. Reserved.**

#### ARTICLE IV. CERTIFICATE OF APPROPRIATENESS

**Sec. 50-96. Required.**

(a) *Approval of alterations, demolitions or new construction.* After the designation by ordinance of a historic property or of a historic district, no historic property may be demolished, no building or structure in a historic district may be erected or demolished and no material change in the exterior appearance of such property or of a structure, site, object or work of art within such historic district shall be made or be permitted to be made by the owner or occupant thereof unless or until the application for a certificate of appropriateness has been submitted to and approved by the historic preservation commission.

(b) *Approval of new construction.* The historic preservation commission shall issue certificates of appropriateness to new structures constructed within designated historic districts if these structures conform in design, scale, building materials, setback and landscaping to the character of the district specified in the design criteria developed by the historic preservation commission.

(c) *Approval of signs.* Signs shall be considered as structures, and no sign on a historic property or in a historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the historic preservation commission.

(d) *Approval of alteration or demolition.* The requirement of a certificate of appropriateness shall apply to public property which has been designated as a historic property or which is contained in a historic district and shall apply to all actions by public authorities which involve historic properties and properties within historic districts.

(e) *Color.* Changes in exterior color shall require a certificate of appropriateness.

(f) *Painting originally unpainted surfaces.* The painting of originally unpainted surfaces shall require a certificate of appropriateness.

(g) *Interior alterations.* In its review of applications for certificates of appropriateness, the historic preservation commission shall not consider interior arrangement or use having no effect on exterior architectural features.

(h) *Failure to maintain historic property.* Demolition by neglect and the failure to maintain a historic property or a structure in a historic district shall constitute a change for which a certificate of appropriateness is necessary. (Code 1977, § 11.1-41)

#### **Sec. 50-97. Approval.**

(a) *Guidelines and criteria.* The historic preservation commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness. The historic preservation commission shall also adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness. Design standards shall be in compliance with the Secretary of the Interior's "Standards for Historic Preservation Projects" including the Secretary's "Standards for Rehabilitation."

(b) *Submission of plans.* An application for a certificate of appropriateness shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the historic preservation commission. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site.

(c) *Criteria for issuance.*

(1) The historic preservation commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change in the appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or of the historic district.

In making this determination, the historic preservation 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 the other structures in the immediate neighborhood.

(2) The historic preservation commission shall deny a certificate of appropriateness if it finds that the proposed material change in appearance would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district. The commission shall not grant certificates of appropriateness for demolition or relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.

(d) *Public meetings and hearings.* Applications for certificates of appropriateness shall be considered by the historic preservation commission at public meetings monthly at a regular time to be established by the commission. At least seven days prior to review of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected because of the application and shall give the applicant and such owners an opportunity to be heard. When the commission deems it necessary, it may hold a public hearing concerning the application. All meetings shall be open to the public.

(e) *Deadline for approval or rejection of application.*

(1) The historic preservation commission shall approve or reject an application for a certificate of appropriateness within 45 days after the filing thereof by the owner or occupant of a historic property or of a historic structure, site, object or work of art located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commis-

sion. Notice of the issuance or denial of a certificate of appropriateness shall be sent by United States mail to the applicant and all other persons who have requested such notice in writing filed with the commission.

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

(f) *Rejection of application.*

- (1) If the historic preservation commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such actions and reasons, in writing, to the applicant. The 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 modifications to the plans and may resubmit the application at any time after doing so.
- (2) When the application covers a material change in the appearance of a structure that would require the issuance of a building permit, the rejection of the 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 cases, no building permit shall be issued.

(g) *Appeals.* Any person having a request for a certificate of appropriateness denied by the historic preservation commission or architectural review board as hereinafter provided, may appeal such denial to the circuit court of the county in which the commission exists. (Code of Alabama 1975, § 11-68-10 et. seq.)

(h) *Recording of applications.* The historic preservation commission shall keep a public record of all applications for certificates of appropriateness and of all the commission's proceedings in connection with the application. (Code 1977, § 11.1-42; Ord. No. 2007-222, § 1, 6-26-07)

**Sec. 50-98. Compliance.**

(a) All work performed pursuant to an issued certificate of appropriateness issued under this article shall conform to the requirements of such certificate. If work is performed not in accordance with such certificate, the historic preservation commission shall issue a cease and desist order and all work shall cease.

(b) The board of commissioners 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 this chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.

(c) A certificate of appropriateness shall become void unless construction is commenced within six months of the date of issuance. Certificates of appropriateness shall be issued for a period of 18 months and are renewable.

(Code 1977, § 11.1-43)

**Sec. 50-99. Technical advice.**

The historic preservation commission shall have the power to seek technical advice from outside its members on any application submitted under this article.

(Code 1977, § 11.1-44)

**Secs. 50-100—50-125. Reserved.**

**ARTICLE V. MAINTENANCE OF HISTORIC PROPERTIES**

**Sec. 50-126. Expedited review procedures for approval of routine maintenance.**

The historic preservation commission may adopt expedited review procedures for approval of routine maintenance to historic properties or to buildings or structures in historic districts. Routine maintenance to historic properties includes ordinary maintenance or repair of any exterior architectural or environmental feature in or on a

historic property to correct deterioration, decay or damage or to sustain the existing form that does not involve a material change in design, material or outer appearance. Expedited review procedures shall waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting. (Code 1977, § 11.1-51)

**Sec. 50-127. Failure to provide ordinary maintenance or repair.**

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The historic preservation commission shall be charged with the following responsibilities regarding deterioration by neglect:

- (1) The commission shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Such conditions as broken windows, doors and openings which allow the elements and vermin to enter; the deterioration of exterior architectural features; or the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.
- (2) If the commission determines a failure to provide ordinary maintenance or repair, the commission will notify the owner of the property and set forth the steps which will need to be taken to remedy the situation. The owner of such property will have 90 days in which to initiate this.
- (3) If the condition is not met in 90 days, the owner shall be punished as provided in section 50-4 and, at the direction of the board of commissioners, the commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the commission.

(Code 1977, § 11.1-52)

