

Historic Preservation Ordinance

**Adopted by the
Athens Historic Preservation Commission
City of Athens, Alabama**

February 8, 2011

**Adopted by the
Athens City Council
City of Athens, Alabama**

February 14, 2011

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ORDINANCE NUMBER 2011-1791
AN ORDINANCE AMENDING CHAPTER 66, ARTICLE II OF THE CODE OF
ORDINANCES OF THE CITY OF ATHENS, ALABAMA, CONCERNING THE
ATHENS HISTORIC PRESERVATION COMMISSION

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS,
Alabama, as follows:**

Section I. Chapter 66, Article II of the Code of Ordinances of the City of Athens, Alabama (entitled “Historic Preservation”) is hereby amended in its entirety so as to read as follows:

ARTICLE II. HISTORIC PRESERVATION

DIVISION 1. GENERALLY

Sec. 66-31. Establishment of Commission.

Pursuant to and in accordance with Title 11, Chapter 68 of the *Code of Alabama*, as now or hereafter amended, and prior ordinances of the City establishing a historic preservation commission in the City, there is hereby created and established a historic preservation commission whose title shall be the “Athens Historic Preservation Commission” (referred to in this Article II as the “Commission”). The Commission shall have the same powers as provided in Title 11, Chapter 68 of the *Code of Alabama*. All historic districts designated by the City Council pursuant to said statutes and ordinances shall be under the administration of the Commission as stated herein.

Sec. 66-32. Findings and Purpose.

a. *Purpose.* In support and furtherance of its findings and determination that the heritage of the designated historical districts of the City of Athens is important and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people; in order to encourage revitalization of the business districts and historic neighborhoods and to protect and enhance local attractions to tourists and thereby promote and stimulate business; in order to enhance the opportunities for federal or state tax benefits under relevant provision of federal or state laws; 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; the city council hereby declares it to be the purpose and intent of this ordinance to provide for the protection, enhancement and perpetuation of places, districts, sites, buildings and structures having a special historical value, in accordance with the provisions of the ordinance.

Sec. 66-33. Definitions.

The following words, terms and phrases, when used in this Article II, 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 Commission of an application to make a change in the exterior appearance of a designated historic property or of a property located within a designated historic district.

Change in exterior appearance means a change visible from any public right of way, excluding the rear of the home, that will affect the exterior architectural features of a historic property or any building, structure or site within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location or advertising;
- (5) The erection, alteration, restoration or removal of any building within a historic property or district; or
- (6) The painting of previously unpainted surfaces.

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 and the type and style of all windows, doors, signs and other architectural fixtures, features, details or elements relative to the foregoing.

Historic district means a geographically defined area designated by the City Council as a historic district subject to this ordinance, as well as the Robert Beaty, Houston and Athens State College historical districts that exist as of the date of adoption of this Ordinance.

Historic property means an individual building, structure, or site including the adjacent area necessary for the proper appreciation thereof designated as such by the City Council .

Owner means the holder of the fee simple title as revealed on the relevant property tax rolls, and any person (natural, legal or corporate) or groups of persons, companies, associations, corporations, or partnerships who, alone or jointly or severally with others: (1) shall have legal title to any property, with or without an accompanying right of possession; or (2) shall have charge, care or control of any property as owner, executor, executrix, administrator, trustee, guardian of the estate owner, mortgagee or vendee in

possession, or assignee of rents, lessee, or other person, firm or corporation in control of a property.

Routine Maintenance means repair or replacement work done, which does not meet the definition of “change in exterior appearance”, or is necessary after damage resulting from an act of GOD.

Sec. 66-34. Affirmation of Building and Zoning Code Provisions.

Nothing in this Ordinance shall be construed as to exempt property owners from complying with existing City building and zoning codes, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

Secs. 66-35 ---- 66-50. Reserved.

DIVISION 2. COMMISSION

Sec. 66-51. Commission Members; Number; Appointments; Terms; Compensation; Rules and Standards.

a. The Commission shall be composed of not less than seven (7) members. Members of the Commission shall be bona fide residents of the territorial jurisdiction of the City of Athens and not more than one-fifth (1/5) of the members of the Commission shall be public officials.

b. Members of the Commission shall be nominated by the Mayor and appointed by the Council. Nomination and appointment of members shall be made so as to ensure that the Commission will be composed of persons with training and experience in the fields of history, architecture, architectural history, urban planning, archaeology or law, or who shall be residents of or owners of property within a designated historic district. The Mayor may seek nominations from the Commission if he deems necessary. The City of Athens will advertise any and all vacancies in a timely manner to allow time for nominations to the Mayor's office.

c. Members of the Commission may be removed for cause by the City Council of the City of Athens.

d. Should a member fail to attend three (3) consecutive regular meetings of the Commission, and should there be no adequate excuse for such absences, the chairman, with the concurrence of a majority of the entire Commission, shall recommend to the City Council that a vacancy be declared and that the vacated position be filled. Such appointments shall be for the unexpired term of the member replaced.

e. Members of the Commission shall elect a chairman and vice chairman and such other officers as the members deem necessary. The Commission shall adopt rules of procedure and bylaws to govern its operations and shall communicate those rules of procedure and bylaws to the City Council. The rules of procedure and bylaws of the Commission shall specify what number of members of the Commission constitutes a

quorum but in no case shall less than fifty (50) percent of the entire membership be considered a quorum.

f. The Commission shall have the flexibility to adopt rules of procedure and bylaws to govern its operations, so long as the rules and standards are consistent with this Article and are otherwise authorized by Title 11, Chapter 68 of the *Code of Alabama*, as amended. The adopted rules of procedure will be available to the public at the Public Works Department.

g. Members of the Commission shall serve without compensation but may be reimbursed for expenses incurred on behalf of the Commission in accordance with the rules and regulations for the reimbursement of expenses adopted by the Commission. Any reimbursement for travel and/or travel expense must be pre-approved by the City Council through a request by the Department of Public Works. The City Council will determine if the requested travel, etc. is pertinent to the duties of the Commission.

h. The Commission may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the Ordinance. Any reimbursement for employment will follow policy of prior approval by the City Council upon determination by the Council that such professional, technical assistance is needed.

i. Except for the original members of the Commission, members of the Commission shall serve three (3) year terms and shall be appointed in such a manner so as to serve overlapping terms. Two of the original members of the Commission shall be appointed to serve one year terms, two of the original members of the Commission shall be appointed to serve two year terms, and the remainder of the original members of the Commission shall be appointed to serve three year terms. Members of the Commission may be reappointed.

Sec. 66-52. Commission meetings, minutes and public participation.

a. Meetings of the Commission shall be public meetings and the Commission shall meet regularly at an established time and place at least once in each month and further said Commission may meet specially upon call by the chairman or secretary upon giving no less than twenty-four (24) hours notice to each member for purposes specified in the Notice of Call only. Minutes of the Commission's meetings shall be kept by the secretary of the Commission or in the absence of the secretary, by another member designated by the chairman. Such minutes shall reflect all matters brought before the Commission, its proceedings and determinations thereon including the votes of its members when applicable, and shall be permanently retained as official records of the municipality and be made available for public inspection at the Public Works Department within three (3) weeks of the approval of the minutes by the Commission.

b. Any rules of procedure adopted by the Commission shall be available for public inspection at the Public Works Department.

c. During the process of reviewing properties for nomination to the National Register of Historic Places, the Commission must provide opportunity for public comments.

Sec. 66-53. Commission Funding; Financial Status

a. The Commission shall have no authority to obligate the City for any debt or expenditure beyond such sums as the City Council may see fit to appropriate from time to time for its use.

b. The Commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes. The Commission shall have 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 and any political subdivision thereof, including but not limited to income, admission, amusement, excise and ad valorem taxes.

Sec. 66-54. Statement of Commission's power.

The Commission shall be authorized to:

- (a) Accept, consider, approve, or reject applications for certificates of appropriateness in accordance with the provisions of this Ordinance.
- (b) Prepare and maintain an inventory of all property within the City having the potential for designation as historic property,
- (c) In accordance with Section 11-68-6 Code of Alabama, 1975, Recommend to the City Council specific places, districts, sites, buildings or structures to be designated by ordinance as historic properties or historic districts.
- (d) Recommend to the City Council that the designation of any place, district, site, building or structure as a historic property or as a historic district be revoked or removed;
- (e) Restore and preserve any historic properties acquired by the Commission, or such properties as are acquired by the City and designated by the City for restoration and preservation by the Commission;
- (f) Promote the acquisition by the City of façade easements and conservation easements;
- (g) Develop and conduct educational programs on historic properties located within the City and on general historic preservation activities;
- (h) Make such investigations and studies of matters relating to historic preservation as the City Council or the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.
- (i) Seek out local, state, federal, and private funds for historic preservation, and make recommendations to the City Council concerning the most appropriate uses of any funds acquired;
- (j) Perform historic preservation activities as the official agency of the City of Athens historic preservation program;
- (k) Employ persons, if necessary, to carry out the responsibilities of the Commission;

- (l) Receive donations, grants, funds, or gifts of historic property;
- (m) 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;
- (n) Review and make comments to the Alabama Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
- (o) Investigate, survey, and process applications for certification of historic properties for tax credits for preservation expenditures; and
- (p) Participate in private, state, and federal historic preservation programs and with the consent of the City Council, enter into agreements with the same to perform historic preservation related functions.

Sec. 66-55. Annual Reports of Commission’s Activities.

The Commission shall prepare and file with the City Council and with the Alabama Historical Commission, an annual report of its activities as required by said entities. A copy shall be on file at the Public Works Department and shall be made available to the public within 30 days. The annual report shall cover the period from October 1st to September 30th and shall be submitted in October of each year by the Commission through the member of the Commission from the Public Works Department. 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 National Register nominations.

Sec. 66-56. Conflicts of Interest.

At any time the Commission reviews a project in which a member of the Commission has ownership or other vested interest, that member’s actions shall be in accordance with Alabama Ethics Law, as amended.

Secs. 66-57 --- 66-69. Reserved.

DIVISION 3. DESIGNATION OF HISTORIC
DISTRICTS AND PROPERTIES

Sec. 66-70. Preliminary Research by Commission.

a. Commission's mandate to conduct a survey of local historical resources. The Commission shall compile and collect information and conduct surveys of historic resources within the City.

b. Commission's power to recommend districts and buildings to the City Council for designation. The Commission shall present to the City Council recommendations for historic districts and properties in accordance with Section 11-68-6, Code of Alabama, 1975, as amended.

c. Commission's documentation of proposed designation. Prior to the Commission's recommendation of a historic district or historic property to the City Council for designation, the Commission shall make a finding based on a survey in accordance with the rules and regulations of the Alabama Historical Commission and prepare a report consisting of:

- (1) A physical description;
- (2) A statement of the historical, cultural, architectural and/or aesthetic significance;
- (3) A map showing district boundaries and classification (i.e. historic, non-historic) of individual properties therein, or showing boundaries of individual historic properties;
- (4) A statement justifying district or individual property boundaries;
- (5) Design standards for development in the historic district; and
- (6) Representative photographs.

Sec. 66-71. Designation of a Historic District.

a. Criteria for selection of historic districts: A historic district is a geographically definable area, which contains buildings, structures, sites and landscape features or a combination thereof, which:

- (1) Represents one or more periods, styles or types of architecture typical of one or more eras in the history of the municipality, county, state or region;
- (2) Represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation;
- (3) Has had a significant relationship with the life of a historic person or event, representing a major aspect of the history of the locality, region, state or nation;
- (4) Is a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation;
- (5) Contains vernacular structures which contribute to an overall character and sense of place which is representative of the city.

b. Boundaries of a historic district. Boundaries of a historic district shall be shown on the official historic district map.

c. Evaluation of properties within historic districts. Individual properties within historic districts shall be classified as:

- (1) Contributing (contributes to the district);

- (2) Noncontributing (does not contribute to the district).

Sec. 66-72. Designation of a Historic Property.

a. Criteria for selection of historic properties. A historic property is a building, structure, site; including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the city for one of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of past architectural style;
- (3) It is a place or structure associated with an event of persons of historic or cultural significance to the city, state, or region;
- (4) 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; or
- (5) The building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the city or which is unique to the city.

b. Boundary Description. Boundaries shall be shown on the official City of Athens Historic Districts Map.

Sec. 66-73. Requirements for Adopting an Ordinance for Designation of Historic Districts and Properties.

Application for designation of historic districts or property: Designations may be proposed by the City Council, the Commission, or:

- a. For historic districts a historical society, neighborhood association or group of property owners may apply to the Commission for designation.
- b. For historic properties a historical society, neighborhood association or property owner may apply to the Commission for designation.

Sec. 66-74. Required Components of a Designation Ordinance:

- a. Any ordinance designating any property or district as historic shall:
 - (1) list each lot or property in the proposed historic district or describe the proposed individual historic lot or property;
 - (2) set forth the name(s) of owners of the designated property(ies);
 - (3) require that a Certificate of Appropriateness be obtained from the Commission prior to any change in exterior appearance of the designated property(ies); and
 - (4) require that the property or district be shown on the official City of Athens Historic Districts Map.
- b. It shall be the sole responsibility of the petitioner to obtain accurate and current ownership and address information regarding each lot or parcel of property to be

included within a proposed historic district. The information submitted by the petitioners in their application, including the current names and addresses of property owners, will be used by the City to notify property owners of public hearings regarding the historic district petition as required herein.

c. In the event that any property that is to be included within a historic district petition shall be sold or incur a change of ownership while the petition is pending before the Commission or the City Council, it shall be the responsibility of the petitioner to provide notice to and obtain from the new owner(s) current name(s) and address(es) to the Department of Public Works.

d. Required public hearings. The 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 (3) consecutive issues in the principal newspaper of general circulation, and written notice of the hearing shall be mailed by the Commission to all owners of such properties. All such notices shall be published and mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing. Such notice shall be sent to the last-known owner of the property shown on the city tax roll.

e. Recommendations on proposed designations. A recommendation to affirm, modify, or reject the proposed ordinance for designation shall be made by the Commission within fifteen (15) days following the public hearing and shall be in the form of a resolution to the City Council.

f. City Council action on Commission recommendation. Following receipt of the Commission's recommendation, the City Council shall conduct a public hearing prior to considering the ordinance with notice thereof published at least one time in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. After the hearing the City Council may adopt the ordinance as proposed, it may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

g. Notification of designation. Within sixty (60) days following the adoption of the ordinance for designation by the City Council, the Commission shall give written notification of such designation addressed to the owner(s) of each designated historic property, structure or site included within the historic designation. Such notice shall apprise said owner(s) and occupant(s) of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any change in exterior appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last-known owner(s) of the property shown on the City's tax roll shall constitute legal notification.

h. Notification of other agencies regarding designation. The Commission shall notify all municipal agencies within the city of the ordinance for designation.

i. Moratorium on applications for alteration or demolition while ordinance for designation is pending. If an ordinance for designation is being considered, the Commission may request that the city declare a moratorium on the issuance of Building Permits in the area or on the property proposed for designation.

j. Limitations on proposed designations. If the City Council rejects a proposed ordinance for designation, no application for designation for the same, in whole or part, may be made for a period of six (6) months following the City Council's decision, unless the applicant is able to provide additional information not presented at the initial hearing.

k. The Commission's findings and studies made in conjunction with this Division 3 shall be made available to the public at the Public Works Department pursuant to Alabama Law.

Secs. 66-75 --- 66-89. Reserved.

DIVISION 4. CERTIFICATE OF APPROPRIATENESS.

Sec. 66-90. Approval of Alterations, Demolitions or New Construction in Historic Districts or Involving Historic Properties.

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 change in the exterior appearance of such historic property, or of a structure or site 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 Certificate of Appropriateness has been submitted to and approved by the Commission. However, changes which meet the definition of "routine maintenance" do not require a Certificate of Appropriateness.

Sec. 66-91. Approval of New Construction Within Designated Districts.

The Commission shall issue Certificates of Appropriateness to new structures constructed within designated historic districts if these structures conform in design, scale and building materials to the character of the district specified in the design criteria developed by the Commission.

Sec. 66-92. Approval of Signs within Designated Districts.

Signs shall be considered as structures and no sign on a historic property or in a historic district shall be changed, other than for routine maintenance; erected; or demolished unless and until a Certificate of Appropriateness is approved by the Commission.

Sec. 66-93. Demolition Within Designated Districts.

a. Required findings for demolition/relocation. The Commission shall not grant Certificates of Appropriateness for the demolition or relocation of any property within a Historic District unless the Commission finds that the removal or relocation of such building will not be detrimental to the historical or architectural character of the district. In making the determination, the Commission shall consider:

- (1) The historic or architectural significance of the structure;
- (2) The importance of the structure to the integrity of the Historic District, the immediate vicinity, an area, or relationship to other structures;
- (3) The difficulty or the impossibility of reproducing the structure because of its design, texture, material, detail or unique location;
- (4) Whether the structure is one of the last remaining examples of its kind in the neighborhood, county, or the region or is a good example of its type, or is part of an ensemble of historic buildings creating a neighborhood;
- (5) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding area.

b. Content of Applications. All applications to demolish or remove a structure in a Historic District shall contain the following minimum information:

- (1) The date the owner acquired the property and condition on date of acquisition;
- (2) The number and type of adaptive uses of the property considered by the owner;
- (3) Replacement construction plans for the property in question
- (4) Financial proof of the ability to complete the replacement project, which may include but not be limited to a performance bond, letter of credit, trust for completion of improvements, or letter of commitment from a financial institution; and
- (5) Such other information as may reasonably be required by the Commission.

c. Post-demolition or -relocation plans required. In no event shall the Commission entertain any application for the demolition or relocation of any historic property unless the applicant also presents at the same time the post-demolition or post-relocation plans for the site.

Sec. 66-94. Applicability to Public Property within Historic Districts or Public Property Designated as a Historic Property.

The requirement of a Certificate of Appropriateness shall apply to public property that has been designated as a historic property or that is contained in a historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts. Notwithstanding the foregoing, this Article shall not apply to those properties that are excluded from the operation of Title 11, Chapter 68 of the *Code of Alabama* pursuant to Section 11-68-15 thereof as the same exists or is hereafter amended.

Sec. 66-95. Approval of Painting Originally Unpainted Surfaces.

The painting of originally unpainted exterior surfaces shall require a Certificate of Appropriateness.

Sec. 66-96. Interior Alterations.

In its review of applications, the Commission shall not consider interior arrangements or uses having no effect on exterior architectural features.

Sec. 66-97. Guidelines and Criteria for Certificates of Appropriateness.

The Commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for Certificates of Appropriateness. The 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." The design guidelines will be made available for public inspection at the Public Works Department 30 days prior to their adoption.

Sec. 66-98. Submission of Plans to Commission.

A complete application for Certificate of Appropriateness shall be submitted to Commission staff ten (10) working days prior to the next Commission meeting to be added to the agenda for review. The completed application shall be accompanied by such drawings, photographs, plans or other documentation sufficient to understand the action(s) to be taken, as may be required by the Commission. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site.

Sec. 66-99. Acceptable Commission Reaction to Applications for Certificate of Appropriateness.

The Commission shall approve the complete application at a regular or called meeting and issue a Certificate of Appropriateness if it finds that the proposed change(s) in the exterior appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district, is compatible with the character of the historic property or historic district and does not detract from the value of the historic property or 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 the other structures in the immediate neighborhood.

Sec. 66-100. Public Meeting and Hearings on Applications for Certificates of Appropriateness, Notices and Right to be heard.

Applications for Certificates of Appropriateness shall be considered by the Commission at its regular public meetings, unless, after issuance of notice pursuant to law, a special meeting is held for such purpose or the date of such meeting is changed by the Commission. Applicants for a Certificate of Appropriateness shall be given an opportunity to be heard at such meeting. At least seven (7) days prior to review of a Certificate of Appropriateness, the chairman or Commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give such owners an opportunity to be heard at the meeting. In cases where the chairman or Commission deems it necessary, it may hold a public hearing concerning the application.

Sec. 66-101. Deadline for Approval or Rejection of Application for Certificate of Appropriateness.

a. The Commission shall approve or reject a complete application for a Certificate of Appropriateness within thirty (30) days after the filing thereof by the owner or occupant of a historic property, or of a historic structure or site located within a historic district. Evidence of approval shall be a Certificate of Appropriateness issued by the Commission. Notice of the issuance or denial of a Certificate of Appropriateness shall be given to the applicant at such meeting when possible. In any case, notification of approval or denial shall be sent by registered United States mail to the applicant; and all other persons who have requested appeal rights with filing procedures will be included in the notification within 10 business days.

b. Failure of the Commission to act within said thirty (30) days shall constitute approval and no other evidence of approval shall be needed.

Sec. 66-102. Rejection of Application for Certificate of Appropriateness.

In the event the Commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. As appropriate, The Commission shall suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.

Sec. 66-103. Appeals.

Any applicant whose request for a Certificate of Appropriateness is denied by the Commission as hereinafter provided may appeal such denial within 60 days to the circuit court. In the case of such an appeal the Commission shall cause a transcript of the proceedings in the action to be certified to the Court to which the appeal is taken, and the action in such court shall be tried de novo as are appeals from zoning boards of adjustment pursuant to Section 11-52-81 of the *Code of Alabama*, as amended.

Sec. 66-104. Recording of Applications for Certificate of Appropriateness.

The Commission shall keep a public record of all applications for Certificates of Appropriateness and of all the Commission's proceedings in connection with said application. These records will be maintained in the Public Works Department and available for public inspection.

Sec. 66-105. Expiration of Certificate of Appropriateness.

a. Certificates of Appropriateness shall be issued for a period of eighteen (18) months and may be renewed administratively by Commission staff, upon a finding that:

- (1) Construction commenced within six (6) months of the date of issuance;
- (2) The failure to complete the work within the time allotted was due to factors beyond the control of the applicant;
- (3) The work has not been halted, at any time after commencement, for a continuous period of more than four (4) months; and
- (4) The work will be completed in accordance with the plans for which the Certificate was originally issued.

b. A Certificate of Appropriateness shall become void if construction has not commenced within six (6) months of the date of issuance or if, at any time after commencement, construction is halted for a continuous period of more than four (4) months. Upon such expiration, the applicant shall be required to submit a new application for a Certificate of Appropriateness.

c. Continuance of work after the Certificate of Appropriateness has expired shall constitute a violation of this Ordinance and the City Council or the Commission shall be authorized to take action in accordance with Division 5 Enforcement.

Sec. 66-106. Requirements of Conformance with Certificate of Appropriateness.

All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such Certificate. In the event work is performed not in accordance with such Certificate, the Commission shall issue a cease-and-desist order and the City Council or the Commission shall be authorized to take action in accordance with Division 5 Enforcement.

Secs. 66-107 --- 66-109. Reserved.

DIVISION 5. ENFORCEMENT.

Sec. 66-110. Penalties for Violation.

Before seeking the imposition of any municipal court fine in connection with a violation of this article, the City must give written notice of the violation to the party or parties that is/are responsible for the same pursuant to this article. If the relevant property

is not brought into compliance with this article within thirty (30) days after the City's issuance of the notice, then such violation shall be punishable by a fine in the amount of \$200.00. If the property is not brought into compliance with this article within an additional fifteen (15) days, then such violation shall be punishable by an additional fine of \$300.00. If the property is not brought into compliance with this article within the required forty-five (45) days, then, in addition to the above, the City shall resort to Section 66-111 to enforce this Ordinance.

Sec. 66-111. Other Remedies.

The Commission and/or the City may institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any change in exterior appearance to any property, any portion of which is contained in a historic district, except in compliance with the provisions of this Ordinance, or to prevent any act or conduct with respect to such historic district that is a violation of this Ordinance, and to recover any damages that may have been caused by the violation of this Ordinance. Furthermore, the Commission and/or the City may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to stay or prevent a violation of this Ordinance, or to correct or abate such violation of this Ordinance.

DIVISION 6. SEVERABILITY.

In the event that any Division, Section, Subsection, Item, Paragraph, sentence, clause, or phrase of this Ordinance is declared or adjudged to be invalid or unconstitutional, such adjudication shall in no way affect the other portions of this Ordinance, which shall remain in full force and effect, as if the Division, Section, Subsection, Paragraph, Item, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

DIVISION 7. REPEALER.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. Notwithstanding the foregoing, this Ordinance in part carries forward by re-enactment some of the provisions of the City's Historic Preservation Ordinances that are presently found at Chapter 66, Article II of the Municipal Code of the City of Athens, Alabama. It is not the intent of the City Council by adoption of this Ordinance to repeal Chapter 66, Article II of the Code, but rather to re-enact and continue in force without interruption such existing provisions, so that all liabilities which have accrued thereunder shall be preserved, and may be enforced. The enactment of this Ordinance shall not affect any action, suit, or proceeding instituted or pending at this time under Chapter 66, Article II of the Code. All provisions of Chapter 66, Article II of the Code which are not re-enacted herein, are hereby repealed as of the effective date of this Ordinance. All suits at law or in equity and/or all prosecutions resulting from the violation of Chapter 66, Article II of the Code, heretofore in effect, which are now pending in any of the courts of the state or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality, the same as if this Ordinance had not been adopted; and any and all violations of the existing Chapter 66,

Article II of the Code, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted or otherwise addressed through any of the available remedies in law or equity; and nothing in this Ordinance shall be construed to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted. Nothing in this Ordinance shall be construed as repealing any of the Athens City Council's prior ordinances designating any historic property or historic preservation district in the City, and all such properties and districts shall be subject to this Ordinance as they were subject to Chapter 66, Article II of the Code prior to this Ordinance. The Athens Historic Preservation Commission established in Chapter 66, Article II of the Code shall continue as the Commission established by this Ordinance, albeit subject to the provisions hereof.

DIVISION 8. EFFECTIVE DATE.

This Ordinance becomes effective upon publication.

ADOPTED and APPROVED the 23rd day of November, 2009.

AMENDED the 27th day of September, 2010

AMENDED this, the 14th day of February, 2011

PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

CITY CLERK, CITY OF ATHENS, ALABAMA