

## CITY OF ANNISTON

### HISTORIC PRESERVATION COMMISSION

#### RULES OF PROCEDURE AND BY-LAWS

##### **1.0 Purpose**

To establish procedures for organizing the business of the Anniston Historic Preservation Commission, hereafter termed "Commission", to provide for the designation of historic district and properties; to provide, for the issuance of certificates of appropriateness; to provide for an appeals procedure; and for other purposes relating to the preservation of historical properties and districts as more fully described in City of Anniston Ordinance No. 91-0-18.

##### **1.0 General Rules**

The Commission shall be governed by the terms of Senate Bill No. 267 adopted by the Alabama State Legislature and approved by the Governor of the State of Alabama on May 4, 1989, and by Ordinance No. 91-0-18 passed and adopted by the City Council of the City of Anniston, Alabama, and on the 24th day of April 1991.

##### **1.0 Jurisdiction**

The Commission's jurisdiction for its activities shall be the City of Anniston.

##### **1.0 Members, Officers, and Duties**

City of Anniston Ordinance No. 91-08-18 states that the commission shall be composed of nine (9) members, whose terms of office are set by the City Council of the City of Anniston. The City Council has in the past and may in the future choose to appoint less than nine (9) members to the Commission. In no instance shall the Commission conduct business if the numbers of duly appointed members fall below four (4).

**4.1 Chairman.** A Chairman shall be elected by the members of the Historic Preservation Commission. The Chairman shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The Chairman shall have the same voting privileges as any other member. The Chairman shall appoint any committees found necessary to investigate any matters before the Commission.

**4.2 Vice-Chairman.** The Commission from among its members shall elect a Vice-Chairman in the same manner as the Chairman. The Vice-Chairman shall serve as Chairman in the absence of the Chairman, and at such times shall have the same

powers and duties as the Chairman.

**4.3 Secretary.** A member of the city staff, designated by the City Manager shall serve as ex-officio secretary to the Commission. The Secretary, subject to the direction of the Chairman of the Commission, shall keep all records, conduct all correspondence of the Commission and generally supervise the clerical work of the Commission. The Secretary shall not be eligible to vote upon any matter.

**4.4 Elections.** Election of officers shall be held at the first regular meeting in January. Members shall be notified in writing of the election of officers at least thirty (30) days prior to the regular meeting.

**4.5 Attendance at Meetings.** Faithful and prompt attendance at all meetings of the Commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Commission. Any member, who misses more than three (3) consecutive regular meetings or more than one-half of the regular meetings in a calendar year, the Chairman, with the concurrence of a majority of the entire Commission, shall recommend to the appointing body that a vacancy be declared and that the vacated position be filled.

**4.6 Conflict of Interest.** No Commission member shall take part in the hearing consideration or determination of any matter which could provide direct financial benefit to that member or member of the person's immediate family (i.e., related by blood or marriage) or to his employer or the employer of any member of the person's immediate family. Whenever a conflict of interest situation arises in the conduct of business the following actions shall be taken:

A. The individual member shall divulge the existence and reasons for the potential Conflict

B. The preservation commission shall decide if such a conflict exists

C. If it is decided that a conflict exists, the affected member shall refrain from presenting, voting on, or discussing the project, other than answering a direct question.

D. Should the preservation commission determine that a conflict of interest does not exist, the nature of the alleged conflict and the reason(s) for determining a conflict did not exist shall be entered into the minutes.

E. Unless circumstances indicate otherwise, the participation of a commission member in the preparation of an application for the local designation of a historic district or property shall not constitute a conflict of interest unless the designation involves a singular property in which the member has a financial interest or a historic district in which the commission member owns or has a financial interest in a property within that district. In the latter case, the member will not be considered to have a conflict if his/her participation in the Commission's deliberations are limited to the presentation of factual evidence and the member abstains from expressing opinions as to the relative merit of such designation and from participating in any vote taken by the Commission on such designation.

**4.7 Qualification to Vote.** No Commission member shall vote on any matter deciding an application or a request to reconsider unless that member shall have attended the Commission previous deliberations on such application, or, shall otherwise have the approval of the Chairman to vote on such matter. The Chairman's approval shall be contingent on the assurance by the member that the member has read the application and the minutes of any meetings at which the application was discussed.

**4.8 Impartiality Required.** No Commission member shall, in any manner, discuss any pending application with any parties prior to the Commission's deliberations on such application, except as authorized in writing, in advance, by the Chairman and recorded in the minutes; provided, however, that members may seek and/or receive information pertaining to the application from any other member of the Commission or its staff prior to the hearing. Members of the Commission shall not express individual opinions on the proposed judgment of any application, except in accordance with these rules. Violation of this rule shall be cause for dismissal from the Commission. Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances, and rules of procedure relating to the Commission as time and circumstances permit.

## **5.0 Meetings**

**5.1 Regular Meetings.** Regular meetings of the Commission shall be held monthly at a time and place to be determined by a majority of the Commission subject to any notification requirements imposed by City of Anniston Ordinance No. 91-08-18.

**5.2 Special Meetings.** Special meetings of the Commission may be called any time by the Chairman, or, in the absence of the Chairman from the City, by any other officer of the Commission. Notice of the time, place and purpose of the special meeting shall be given to the members of the Committee and the media, provided that no such special meeting shall be held less than 24 hours after notice unless a majority of the Commission, in writing, waives the requirements of this section.

**5.3 Cancellation of Meetings.** Whenever there is no business for the Committee, the Chairman may dispense with a regular meeting by giving notice to all the members not less than twenty-four (24) hours prior to the time set for the meeting.

**5.4 Quorum.** A quorum shall consist of not less than fifty percent (50%) of the number of duly appointed members serving on the Commission.

**5.5 Conduct of Meetings.** All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) roll call; (b) approval of minutes of previous meeting; (c) report of committees; (d) unfinished business; (e) consideration of applications; (f) new business; (g) adjournment.

## **6.0 Application Procedures For Designation of Historic Districts and/or**

## **Historic Properties.**

**6.1 Filing of Application.** An application for designation of a historic property or a historic district must be filed with the Secretary at least two calendar weeks prior to the next meeting of the Commission, accompanied by sketches, drawings, photographs, specifications, descriptions, et cetera of the proposed district or property.

**6.2 Notice Affected Neighboring Property Owners.** Before the Commission shall recommend the designation of a historic property or historic district to the City Council, it shall first conduct a public hearing on any proposed recommendation which said public hearing shall not be conducted until notice thereof shall first have been published in a newspaper of general circulation published in the city of Anniston, with the first publication not being less than fifteen (15) days prior to the public hearing, and the second publication being not less than five (5) days prior to said public hearing. Further, written notice of the public hearing shall be mailed by the Commission to all owners of such properties not less than fifteen (15) days prior to said public hearing. All notices shall state the substance of the recommendation and state the date, time and place of the public hearing to be conducted on said recommendation. For the purposes hereof, written notice to the property owners mailed through the United States Mail, with proper postage affixed, to the last known owner of the property as shown on the tax assessment rolls maintained in the office of the Tax Assessor of Calhoun County, Alabama to the address shown thereon shall constitute notification to the owner as required by this subsection.

**6.3 Action on Application.** The proposal or application before the Commission for a recommendation for designation may be affirmed, modified, or withdrawn, but in any event, the Commission shall act upon said proposal or application within thirty (30) days following the public hearing. If the proposal or application is denied, the Commission shall indicate such in the minutes of the meeting of the Commission. If the proposal or recommendation as proposed, or as modified, is approved, then said approval must be evidenced by a resolution recommending the designation so proposed, which said resolution shall be immediately forwarded to the City Council.

**6.4 Application Procedures For Certificate of Appropriateness.** An application for a certificate of appropriateness must be filed with the Secretary at least two calendar weeks prior to the next meeting of the Commission, accompanied by sketches, photographs, specifications, descriptions, et cetera of the proposed project for which the certificate is sought. An application shall be made in the name of the property owner and signed by the property owner or by such other person designated by the property owner in writing authorized to make such application on behalf of the property owner and otherwise represent him/her before the Commission. All public hearings must be conducted within forty-five (45) days of the receipt of a completed application for a certificate of appropriateness.

**6.5 Notices to Neighboring Property Owners.** The Secretary shall notify the applicant, as well as all adjoining property owners or property owners within a historic district, that such application has been filed with the Commission stating further the date and time that the Commission shall conduct a public hearing upon the application. The notice should state that the details of the application shall be subject to public review at the Office of the Secretary during regular business hours. For the purposes of this section, the placement of a sign on the property for which an application is pending shall constitute adequate notice to surrounding property owners. Said notice shall be provided at least ten calendar days prior to the public hearing.

**6.6 Public Hearing.** A public hearing shall be conducted on all applications for certificates of appropriateness except as herein further provided, pursuant to Section V (e) of ordinance 91-0-18, heretofore passed and adopted by the city Council of the City of Anniston, Alabama.

**6.7 Decision on Application.** The Commission shall approve or reject any application for certificate of appropriateness within thirty (30) days after the public hearing with notice of said action mailed to the applicant and all other persons requesting such notice in writing filed with the commission.

**6.8 Approval of Applications.** Failure of the Commission to act upon the certificate of appropriateness within the time herein above stated shall constitute approval of application and no other evidence of approval shall be needed provided, however, that in such instance, or in the event that the counsel approves the certificate of appropriateness, the Secretary for the Commission shall transmit a certificate of appropriateness in letter form, clearly describing the nature of the work which has been approved to the building inspector. The Secretary shall attach a copy of the minutes of the meeting at which approval was granted and a placard form of a certificate of appropriateness shall be issued which shall be displayed on the project site. A copy of this information shall be filed in the Office of the City Clerk and Planning Department.

**6.9 Denied Applications For Certificate of Appropriateness.** If an application for certificate of appropriateness is denied, a copy of the minutes of the meeting and written reasons for such denial shall be made available to the applicant.

#### **7.0 Consideration of Application, Designations or Certificates of Appropriateness**

At the public hearing upon the consideration of any application for a certificate of appropriateness, any party may appear in person or by agents or attorney. The order of business for consideration of applications shall be as follows:

- (a) The Chairman or such person as he/she shall direct, shall give a preliminary statement describing the application.
- (b) The Commission shall bear arguments in support of the application.

- (c) The Commission shall bear arguments against the application.
- (d) Statements or arguments submitted by an official, commission, any state agency, any local historical, preservation or neighborhood association of Anniston shall be presented as directed by the Chairman.
- (e) The Chairman or such person as he/she may direct may summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections.
- (f) The Commission shall thereafter proceed to deliberate whether to grant the application or to deny it. The Commission may in its discretion, view the premises and obtain additional facts concerning any application before arriving at a decision. AU decisions of the Commission shall be supported by appropriate findings of fact, and where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances. In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission may not be limited to consideration of such evidence as would otherwise be admissible in a court of law.

#### **7.1 Expedited Review Procedure For Certificate of Appropriateness For Routine Maintenance**

The Chairman and the Secretary ex officio, or in the event of the absence of either, the Vice-Chairman may receive applications for expedited approval of a Certificate of Appropriateness for routine maintenance to historic properties or to buildings or structures in historic districts, and shall be entitled to grant such Certificates upon their joint concurrence. "Routine Maintenance" shall include ordinary maintenance or repair of any exterior, architectural or environmental feature in or on the 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. The expedited review procedure shall waive the requirements for submission of an application for a Certificate of Appropriateness and for consideration at a public hearing or meeting, and notice adjoining or effected property owners.

Amended March 16, 1992

#### **7.2 Expedited Review Procedure For Applications for Certificate of Appropriateness for Matters Effecting Immediate Safety or Welfare.**

The Chairman and the Secretary, ex officio, or in the absence of either, the Vice Chairman may receive applications for expedited approval of a Certificate of Appropriateness in instances where there is demonstrated a clear present and imminent danger to the public by the existence of any set of facts pertaining to a historic district, which said set of facts shall be certified to the chairman by the Chief building official of the City. Such individuals may, upon their joint concurrence, grant an expedited Certificate of Appropriateness to the extent necessary to remove the imminent danger certified to by the chief building official of the City without the necessity of any public hearing or notification to adjoining or effected property

owners.

### **7.3 Reconsideration of Applications for Certificates of Appropriateness Previously Denied.**

The order of business for reconsideration of applications that previously have been denied shall be as follows:

(a) The Chairman shall entertain a motion from a member of the Commission that the applicant is allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been substantial change in the facts, evidence or conditions relating to the application; provided, however, that the applicant shall be given the opportunity to request any other additional supporting evidence, if the Commission decides to reconsider the application.

(b) After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence or conditions relating to the application that would warrant reconsideration. If the commission finds that there has been such a change, it shall thereupon treat the request as a new application received at that time.

### **8.0 Consideration of Applications or Certificates of Appropriateness That Have Been Denied.**

The order of business for reconsideration of applications that previously have been denied shall be as follows:

(a) The Chairman shall entertain a motion from a member of the Commission that the applicant is allowed to present evidence in support of the request for consideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence or conditions relating to the application; provided, however, that the applicant shall be given the opportunity to present any other additional supporting evidence, if the Commission decides to reconsider the application.

(b) After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence or conditions relating to the application that would warrant reconsideration. If the Commission finds that there has been such a change, it shall thereupon treat the request as a new application received at that time.

### **9.0 Modification of Applications**

An approved or pending application may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or sketches, where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the

applicant to notify affected property owners following the same procedures originally followed by the Commission, as set forth in Section 6.2 before taking action on the application. The Commission shall thereupon treat the request in the same manner as any other application as outlined in Section 6.0.

**10.0 Vote**

The vote of a majority of those members present shall be sufficient to decide matters before the Commission, provided a quorum is present.

**11.0 Appeals**

Appeals from decisions of the Commission shall be made to Circuit Court.

**12.0 Amendments**

These rules may, within the limits allowed by law, be amended at any time by and affirmative vote of not less than fifty percent (50%) of the active number of duly appointed members serving on the Commission, provided that such amendment shall have been first presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Approved by the Commission the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Chairman  
Anniston Historic Preservation Commission