



**CITY OF FAIRHOPE
CITY COUNCIL WORK SESSION AGENDA**

**Monday, February 26, 2024 - 4:30 PM
City Council Chamber**

Council Members

Kevin G. Boone
Jack Burrell
Jimmy Conyers
Corey Martin
Jay Robinson

1. Presentation by Principal Tonya Harrelson of J. Larry Newton Elementary School
2. Discussion of Working Waterfront
3. Discussion of the Historic Preservation Commission Ordinance
4. Committee Updates
5. Department Head Updates

**City Council Agenda Meeting – 5:30 p.m. on Monday, February 26, 2024
City Council Chamber**

Next Regular Meeting - Wednesday, March 6, 2024 - Same Time Same Place



CITY OF FAIRHOPE
AGENDA MEMORANDUM

Item ID: 2024-240

FROM:	Sherry Sullivan, MAYOR
SUBJECT:	Discussion of the Historic Preservation Commission Ordinance
AGENDA DATE:	February 26, 2024

RECOMMENDED ACTION:

Discussion of the Historic Preservation Commission Ordinance.

BACKGROUND INFORMATION:

BUDGET IMPACT/FUNDING SOURCE:

GRANT:

LEGAL IMPACT:

FOLLOW UP IMPLEMENTATION:

AN ORDINANCE TO ESTABLISH A HISTORIC PRESERVATION COMMISSION IN THE CITY OF FAIRHOPE; TO PROVIDE FOR DESIGNATION OF HISTORIC PROPERTIES OR HISTORIC DISTRICTS; TO PROVIDE FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS; TO PROVIDE FOR AN APPEALS PROCEDURE; CERTIFICATE OF ECONOMIC HARDSHIP; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE:

Section I: Purpose

- A. In 1989, the State of Alabama enacted legislation authorizing all municipalities to adopt ordinances to establish historic development commissions, and to promote educational, cultural, economic and general welfare of Alabama municipalities through preservation and protection of historic resources. (Alabama Code §§ 11-68-1 through 11-68-15).
- B. Alabama Code § 11-68-14 additionally authorizes the City to grant the Commission additional powers set forth in Alabama Code Title 11 Chapter 68.
- C. In support and furtherance of its findings and determination that the historical, cultural, and aesthetic heritage of the City of Fairhope 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;
- D. In order to stimulate revitalization of the business district and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and thereby promote and stimulate business;
- E. In order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and
- F. 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;
- G. The City Council of the City of Fairhope hereby declares it to be the purpose and intent of this Ordinance 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 the provisions of the Ordinance.

NOW, THEREFORE, in consideration of these findings, the Council hereby adopts this Ordinance as follows.

Section II: Creation of a Historic Preservation Commission

A. Creation of the Commission

1. There is hereby created a Commission whose title shall be "City of Fairhope Historic Preservation Commission" (hereinafter "Commission") pursuant to §§ 11-68-1 through 11-68-15 of the *Code of Alabama* (1975).
2. The Commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes as provided herein.

B. Commission Members: Number, Appointment, Terms, Compensation and Rules and Standards

1. The Commission shall be composed of seven (7) members, who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology, law, or related fields, or who shall have demonstrated an interest in historic preservation with training in historic preservation. Members may also be residents of a Historic District designated pursuant to this Ordinance, regardless of training or experience. Members of the Commission shall be bona fide residents of the territorial jurisdiction of the City of Fairhope. Not more than one of the members of the Commission shall be a public official, and such public official shall meet the experience and/or residency requirements set forth hereinabove.
2. Members of the Commission shall be nominated by the Mayor and appointed by the City Council. Nomination and appointment of members of the Commission shall be made to ensure that the Commission will be composed of persons having as much of the training and experience specified in section (1) as possible.
3. Except for the original members of the Commission, members of the Commission shall serve three 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 a one year term, two of the original members of the Commission shall be appointed to serve a two year term, and the remainder of the original members of the Commission shall be appointed to serve a three year term. Members of the Commission may be reappointed.
4. 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.

5. Any vacancy occurring on the Commission other than by expiration of term shall be filled for the unexpired term of such member by the procedures set forth in section 2 above.
6. Conflict of Interest. No member shall vote, present, discuss or participate in any matter in which the member has a Conflict of Interest or in which the member or any family member has any financial gain or interest.
7. Members of the Commission may be removed for cause by the City Council, which shall be established in the sole discretion of the City Council.
8. Members of the Commission shall elect a chairman and a vice chairman and such other officers as the Commission 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. The Commission's rules of procedure and bylaws may be amended from time to time by the Commission.

C. Commission Meetings, Minutes and Public Participation

1. All meetings of the Commission must be publicly announced and be open to the public. Commission meetings must occur at regular intervals. Written notice must be provided prior to all meetings, including any special meetings, by electronic transmission or US Mail and the Commission shall furnish a copy of its meeting schedule to the City Clerk, Mayor, and Commission Members and post such notices on the City's web page.
2. Minutes of all decisions and actions of the Commission including the reasons for making these decisions must be submitted to the City Clerk and available for public inspection.
3. All decisions of the Commission shall be made in a public forum and applicants must be given written notification of the Commission's decision.
4. The rules of procedure and bylaws adopted by the Commission must be available for public inspection and constitute a public record that shall be furnished to the City Clerk.

D. Statement of the Commission's Power

1. The Commission shall be authorized to:
 - a. Prepare and maintain a survey and inventory of all property within the City having the potential for designation as a Historic Property or potential Historic District;
 - b. Recommend to the City Council buildings, structures, sites, and districts for designation as Historic Properties or Historic Districts.
 - c. Review applications for Certificates of Appropriateness and grant and deny same in accordance with this Ordinance and Alabama Code § 11-68-9.

- d. Promote acquisition of façade and conservation easements by the City or by the Commission;
- e. Develop and conduct educational programs on historic projects and districts designated pursuant to this Ordinance and on historic preservation subjects;
- f. Recommend to the City Council that the designation of any buildings, structures, sites, or districts as a Historic Property or as a Historic District be revoked or removed;
- g. Make recommendations for potential acquisition of Historic Properties to the City of Fairhope;
- h. Make such investigations and studies of matters relating to historic preservation as the City deems necessary and appropriate;
- i. Seek out local, state, federal and private funds for historic preservation, and make recommendations to the City Council concerning the most appropriate use of any funds acquired;
- j. Employ persons, if necessary, to carry out the responsibilities of the Commission as authorized by the City Council;
- k. Review and make comments to the Alabama Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
- l. Investigate, survey and process nominations of properties to the National Register of Historic Places;
- m. Investigate, survey and process applications for certification of Historic Properties for tax credits for preservation expenditures;
- n. Participate in private, state and federal historic preservation programs and enter into agreements with same to perform historic preservation related functions as authorized by City Council.
- o. Exercise such further powers as the Commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the Commission pursuant to Alabama law and subject to approval by City Council.

E. Annual Reports of the Commission's Activities

- 1. 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 the City Council and the Alabama Historical Commission. The annual report shall cover the period from October 1st to September 30th and shall be submitted in October of each year. The report shall include such items as the number of cases reviewed, Historic District and Historic Property designations made, revised resumes of Commission Members/staff, appointments to the Commission, and all minutes relating to the

review of National Register nominations. The report shall document attendance at the orientation and training sessions of Commission Members.

F. Records of Commission Meetings

1. A public record shall be kept of the Commission's resolutions, proceedings and actions.

G. Responsibilities of Commission Members

1. Each Commission Member and anyone serving the Commission in a technical/professional staff capacity are encouraged to attend informational or educational meetings each year pertaining to historic preservation. Such meetings may include those sponsored by the Alabama Historical Commission, the National Trust for Historic Preservation, or a local preservation organization.

H. Liaison Between the Commission and the State Historic Preservation Office (Alabama Historical Commission)

1. Should the City Council elect to become a Certified Local Government ("CLG"), the City Council shall designate an employee of the City or a person working under contract as a source of technical, administrative, or professional assistance to be responsible for the operations of the Commission pursuant to the requirements of certification for participation in the Certified Local Government Program. At least one member of the Commission and/or the person serving as the Commission's liaison will attend the Alabama Certified Local Government orientation training session sponsored by the Alabama Historical Commission each year.

Section III: Recommendation and Designation of Historic Districts and Properties

A. Preliminary Research by Commission

1. The Commission shall compile and collect information and conduct surveys of historic resources within the City of Fairhope in accordance with the rules and regulations of the Alabama Historical Commission.
2. The Commission shall present to the City Council recommendations for Historic Districts and Historic Properties.
3. Prior to the Commission's recommendation of a Historic District or Historic Property to the City Council for designation, the Commission shall prepare a report consisting of:
 - a. a physical description;
 - b. a statement of the historical, cultural, architectural, and/or aesthetic significance;
 - c. a map showing district boundaries and classification (i.e., historic, non-historic) of individual properties therein, or showing boundaries of individual Historic Properties;
 - d. a statement justifying district or individual property boundaries;

- e. representative photographs.

B. Designation of a Historic District

1. A Historic District is a geographically definable area, which contains buildings, structures, sites, objects, landscape features and works of art or a combination thereof, which:
 - a. 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;
 - b. represents a significant aspect of the cultural, political, economic, military, or social history of the locality, region, state, or nation;
 - c. 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;
 - d. is a part of the historic, architectural, archaeological, or aesthetic heritage of the locality, region, state, or nation;
 - e. contains vernacular structures which contribute to an overall character and sense of place which is representative of the City of Fairhope.
2. Boundaries of a Historic District designated by City Council shall be shown on the Official Zoning Map or other designated map kept as a public record to provide notice of such designation.
3. Evaluation of properties within Historic Districts: Individual properties within Historic Districts shall be classified as:
 - a. contributing (contributes to the district);
 - b. non-contributing (does not contribute to the district).

C. Designation of a Historic Property

1. A Historic Property is a building, structure, or site deemed worthy of preservation by reason of value to the City of Fairhope for one of the following reasons:
 - a. it is an outstanding example of a structure representative of its era;
 - b. it is one of the few remaining examples of past architectural style;
 - c. it is a place or structure associated with an event of persons of historic or cultural significance to the City of Fairhope, State of Alabama, or the region;
 - d. it is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the municipality, county, state or region; or
 - e. the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the City of Fairhope, or which is unique to the City of Fairhope.

2. A Historic Property designated by City Council shall be shown on the Official Zoning Map or other designated map kept as a public record to provide notice of such designation.

D. Requirements for Adopting an Ordinance for the Designation of Historic Districts and Historic Properties

1. 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.
2. Required Components of a Designation Ordinance: Any ordinance designating any property or district as historic shall:
 - a. list each property in a proposed Historic District or describe the proposed individual Historic Property;
 - b. set forth the name(s) of the Owner(s) of the designated property or properties; and
 - c. require that a Certificate of Appropriateness be obtained from the Commission prior to any Material Change in appearance of the designated property.
3. 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 accordance with the notice requirements of the City of Fairhope and Alabama law. A notice of such hearing shall be sent via United States Mail to the last-known Owner of the property shown on the Baldwin County tax roll and a notice sent via United States Mail to the address of the property to the attention of the occupant under this ordinance.
4. Recommendations on Proposed Designations: A recommendation in support, or with proposed revisions, or in opposition to the proposed Designation Ordinance shall be made by the Commission in the form of a recommendation to the City Council.
5. City Council Action on Commission Recommendation: Following receipt of the Commission's recommendation, the City Council may adopt the Designation Ordinance as proposed, may adopt the Designation Ordinance with any amendments it deems necessary, may return the Designation Ordinance to the Commission for further evaluation, or reject the ordinance.
6. Notification of Adoption of Ordinance for Designation: Within thirty (30) days following the adoption of the Designation Ordinance by the City Council, the Commission shall give written notification to the Owners and occupants of each designated Historic Property, and the Owners and occupants of each building, structure or site within a designated Historic District, which notice shall apprise said

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 Baldwin 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 ordinance. The Commission shall also notify all agencies of the City of Fairhope of the Designation Ordinance following adoption by City Council.

Section IV: Application to Historic Preservation Commission for Certificate of Appropriateness

A. Approval of Alterations, Demolitions, or New Construction in Historic Districts or Involving Historic Properties

1. 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 (see Section IX definitions) shall be made to the exterior appearance of such Historic Property, or of a structure, or site within such Historic District, unless or until the application for a Certificate of Appropriateness has been approved by the Commission, except that no Certificate of Appropriateness shall be required by the City for the demolition of all or part of a structure, building or other property deemed to be a public nuisance and ordered to be demolished by the City Council.

B. Approval of New Construction within Historic Districts

1. The Commission shall issue Certificates of Appropriateness (COA) 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 Commission.

C. Approval of Signs Within Historic Districts

1. 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 Commission.

D. Demolition Within Historic Districts

1. The Commission shall not grant Certificates of Appropriateness for the demolition or relocation of a Historic Property or any property within a Historic District unless the Commission finds that the removal or relocation of such building and/or structure will not be detrimental to the historical or architectural character of the district. In making this determination, the Commission shall consider:
 - a. The historic or architectural significance of the structure in or of itself or as part of the district;
 - b. The importance of the structure to the integrity of the Historic District, the immediate vicinity, area, or relationships to other structures;

- c. The difficulty or the impossibility of reproducing the structure because of its design, texture, material, detail, or unique location;
 - d. Whether the structure is one of the last remaining examples of its kind in the neighborhood, the county, or the region or is a good example of its type, or is part of an ensemble of historic buildings creating a neighborhood;
 - e. 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, or aesthetic nature of the district.
- 2. Content of Applications. All applications to demolish or relocate a structure in a Historic District shall contain the following minimum information:
 - a. The date the Owner acquired the property, purchase price, and condition on date of acquisition;
 - b. Replacement construction plans for the property in question and future use;
 - c. Financial proof of the ability to complete the replacement project, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
 - d. Such other information as may be reasonably required by the Commission.
- 3. 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.
- E. Approval of Alterations or Demolitions of Public Property Within Historic Districts or Public Property Which Has Been Designated as a Historic Property
 - 1. 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.
- F. Interior Alterations
 - 1. In its review of applications for Certificates of Appropriateness, the Commission shall not consider interior arrangement or use having no effect on Exterior Architectural Features.
- G. Failure to Maintain a Historic Property
 - 1. 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.

H. Guidelines and Criteria for Certificates of Appropriateness

1. The Historic Preservation Commission shall approve an application and issue a Certificate of Appropriateness if it finds that the proposed change, erection, or demolition conforms to the general design standards established by the Commission, 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.
2. 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 modeled on those established by the Alabama Historic Commission which shall apply in considering the approval or denial of Certificates of Appropriateness.

I. Submission of Plans to Commission

1. An application for a Certificate of Appropriateness shall be submitted at least thirty (30) days before the next scheduled Commission meeting and shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the Commission, Staff, or other representatives of the City of Fairhope. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site.

J. Response to Applications for Certificate of Appropriateness

1. The Commission shall approve the application and issue a Certificate of Appropriateness if it finds that the proposed Material Change(s) in the 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. 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.
2. The Commission shall deny a Certificate of Appropriateness if it finds that the proposed Material Change(s) in appearance would have substantial adverse effects on the aesthetic, historic, or architectural significance and value of the Historic Property or the Historic District.

K. Public Meetings and Hearings on Applications for Certificates of Appropriateness

1. Applications for Certificates of Appropriateness shall be considered by the Commission at public meetings, held at (time) in (place) on the (1st, 2nd, 3rd or 4th) (day) of each month. At least seven (7) days prior to review of a Certificate of Appropriateness, the Commission shall take such action as may be reasonably required to inform the Owners of any property likely to be affected by reason of the application, and shall give applicant and such Owners notice of the opportunity to be heard at the public hearing.

L. Approval or Rejection of Application for Certificate of Appropriateness

1. The Commission shall approve or reject an application for a Certificate of Appropriateness at a public meeting within forty-five (45) days from the submission of a completed application, including all necessary supporting documentation, by the Owner or occupant of a Historic Property, or of a historic building, structure, or site, located within a Historic District. Evidence of approval shall be by a Certificate of Appropriateness issued by the Commission. 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. Failure of the Commission to act within forty-five (45) days shall constitute approval and no other evidence of approval shall be needed. An applicant requesting a delay or a Commission-adopted motion to holdover an application shall relieve the Commission of the 45-day deadline.

M. Necessary Actions to be Taken by Commission upon Rejection of Application for Certificate of Appropriateness

1. 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, and the City Clerk. The Commission may 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 making any modifications.
2. In cases where the application covers a Material Change in the exterior appearance of a Historic Property or designated building, structure, or site within a Historic District which 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 Department or other relevant Departments of the City charged with issuing permits or approvals and, in such cases, no building permit shall be issued.

N. Appeals

1. Any person having a request for a Certificate of Appropriateness denied by the Commission as hereinafter provided, may appeal such denial to the Circuit Court of Baldwin County, Alabama within thirty (30) days of the Commission's decision.
2. Standard of Review. The appeal shall be determined solely on the question of whether the Commission, in rendering its decision, acted beyond the limits of its powers or abused its discretion.

O. Certificate of Economic Hardship

1. If the Commission denies an application for a Certificate of Appropriateness, a property Owner may apply for a Certificate of Economic Hardship. The purpose of the Certificate of Economic Hardship is to provide relief where the application of this Ordinance would otherwise impose a Substantial Economic Hardship.
2. Burden of Proof. The burden of proof rests on the applicant to show that the denial

of the Certificate of Appropriateness will result in a Substantial Economic Hardship.

3. Applications. The applicant shall provide such information as may be reasonably required by the Commission to establish the Owner's claim of Substantial Economic Hardship. The data provided by the applicant must be substantiated by proof. The Commission may request additional information from the applicant as necessary to make informed decisions. Certificates of Economic Hardship are granted only to the applicant and are not transferable.
4. Standards for Consideration. In making its determination, the Commission may consider, but is not limited to, the following described factors, evidence, and testimony:
 - a. Date property was acquired and status of the property under this Ordinance at the time of acquisition, e.g., whether property was protected by this Ordinance, condition at the time of acquisition, etc.
 - b. The structural soundness of the building, or any structures on the property and their suitability for rehabilitation.
 - c. The current level of economic return on the property.
 - d. The economic feasibility of rehabilitation or reuse of the existing property.
 - e. Comments and/or reports from any community organizations, preservation groups, other associations and private citizens that wish to comment on a submission made under the financial hardship provision; and
 - f. The extent to which the Owner is responsible for his or her own economic hardship, if any, such as the Owner's failure to:
 1. Perform normal maintenance and repairs;
 2. The Owner's purchase of the subject property after the enactment of this Ordinance without making said purchase contingent upon the Owner's first obtaining the approvals required by this Ordinance.
5. Hearing. The Commission shall hold a public hearing as soon as practical but no later than forty-five (45) days following receipt of a completed application for a Certificate of Economic Hardship. Notice shall be provided in the same manner the Commission uses for hearings on Certificates of Appropriateness. At the public hearing, the Owner and any other interested parties shall have the right to speak to the Commission and discuss the applicability of the standards set forth above. The Commission shall make its decision at the public hearing. If the Commission fails to timely hold a public hearing the application for a Certificate of Economic Hardship shall be deemed granted.
6. Denial. If the Commission determines to deny the application for a Certificate of Economic Hardship, the applicant shall be notified in writing and shall be provided a copy of the Commission's final order.

7. Issuance of Certificate. The certificate may be subject to conditions including design guidelines for subsequent construction not inconsistent with the standards set forth in this Ordinance and the Commission's design guidelines. The Certificate of Economic Hardship shall be valid for a period of one hundred twenty (120) days from approval by the Commission.
- P. Record of Applications for Certificate of Appropriateness and Certificates of Economic Hardship
 1. 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.
- Q. Certificate of Appropriateness Void if Construction not Commenced
 1. A Certificate of Appropriateness shall become void unless construction is commenced within twelve (12) months from the date of issuance. Certificates of Appropriateness are renewable for one (1) additional twelve-month period.
- R. Requirements of Conformance with Certificate of Appropriateness
 1. All work performed pursuant to a Certificate of Appropriateness shall strictly comply with all conditions of such certificate. In the event work is not performed in accordance with such Certificate, the City may issue a stop work or cease-and-desist order.
 2. The City Council shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any Material Change in appearance of a designated Historic Property or Historic District, except those changes made in compliance with the provisions of this Ordinance or to prevent any illegal act or conduct with respect to such Historic Property or Historic District.

Section V. Maintenance of Historic Properties and Properties in Historic Districts.

1. Failure to Provide Ordinary Maintenance or Repair. Owners of Historic Properties and/or properties within Historic Districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. It shall be a violation of this Ordinance for an Owner to fail to maintain any structure or to fail to prevent the deterioration of any exterior appurtenance or architectural features of a Historic Property or building, site, or structure within a Historic District.

Section VI: Building and Zoning Code Provisions

1. Nothing in this Ordinance shall be construed as to exempt property Owners from complying with existing City building and zoning codes.

Section VII: Penalty Provisions

1. Violations of any provision of this Ordinance shall be punishable in the same manner as provided for violations of other Ordinances of the City.

Section VIII: Severability

1. In the event that any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Section IX: Definitions

1. "Certificate of Appropriateness" – means a document evidencing approval by the Commission to make a Material Change or repair in the appearance of a designated Historic Property or of a property located within a designated Historic District. A Certificate of Appropriateness is also required for demolition of a structure within a Historic District.
2. "Certificate of Economic Hardship" - Means a document evidencing approval of an Owner's application for relief based on Substantial Economic Hardship.
3. "Certified Local Government" (CLG) – means a local government certified by the National Park Service and the Alabama Historical Commission to participate in the federal Historic Preservation Program and be eligible to receive federal technical assistance and funding for preservation activities.
4. "City" – means the City of Fairhope, an Alabama municipal corporation.
5. "City Council" – means the elected members of the City Council of Fairhope, Alabama.
6. "Commission" – means the City of Fairhope Historic Preservation Commission as established pursuant to this Ordinance.
7. "Commissioner" or "Commission Member" – means a person appointed to the Commission pursuant to this Ordinance.
8. "Conflict of Interest" – means a conflict on the part of a Commissioner between his or her private interest and the responsibilities imposed by this Ordinance. A Conflict of Interest involves any action, inaction, or decision by a Commissioner or in the discharge of his or her duties which would materially affect his or her financial interest or those of his or her immediate family members or any business with which the person is associated.
9. "Contributing Property" – means a building, structure, or site recognized as adding to the historic significance of a Historic District.
10. "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 appurtenant architectural fixtures, features, details, or

elements.

11. "Historic District" – means a geographically definable area designated by the City Council as a Historic District."
12. "Historic Property" – means an individual building, structure, or site including the adjacent area necessary for the proper appreciation thereof designated by the City Council as a Historic Property.
13. "Material Change" – means a change in appearance that will affect either the Exterior Architectural Features of a Historic Property or any building, structure, or site within a Historic District including, but not limited to:
 - (1) Reconstruction or alteration of the size, shape, facade or elevation of a Historic Property, including, but not limited to, relocation or replacement of any doors or windows removal or alteration of any architectural features, details or elements;
 - (2) Demolition or relocation of a building or structure designated Historic Property; or
 - (3) Commencement of excavation for construction purposes.
14. "Mayor" – means the Mayor of the City of Fairhope.
15. "Non-Contributing Property" – means a building, structure or site not recognized as adding to the historic significance of a district.
16. "Owner" – means the holder of the fee simple title as revealed on the relevant property tax rolls and in probate court records, and any person (natural, legal or corporate) or groups of persons, companies, associations, corporations, or partnerships who, alone or jointly or severally with others:
 - a. shall have legal title to any property, with or without an accompanying right of possession; or
 - b. 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.
17. "Substantial Economic Hardship" – means a hardship so great that:
 1. the Owner will effectively be deprived of all reasonable and beneficial use of or return from the property; and
 2. the Owner would be unfairly penalized given that the Owner did not create the conditions at issue.

Effective Date

This Ordinance shall become effective on _____, _____(date). THEREFORE, BE IT RESOLVED, that the City Council does hereby ordain, resolve, and enact the foregoing Historic Preservation Commission Ordinance for the City of Fairhope

Adopted this ____ day of _____, 20____.

Date of Implementation: ____ day of _____, 20 ____.

APPROVED:

Mayor

ATTEST:

Clerk