ORDINANCE NO. 1249

AN ORDINANCE TO ESTABLISH A HISTORIC PRESERVATION COMMISSION IN THE CITY OF TALLADEGA, ALABAMA; TO PROVIDE FOR DESIGNATION OF HISTORIC PROPERTIES OR HISTORIC DISTRICTS; TO PROVIDE FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS; TO PROVIDE FOR AN APPEALS PROCEDURE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA, ALABAMA, AS FOLLOWS:

SECTION I: PURPOSE: In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Talladega 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;

In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and, thereby, promote and stimulate business;

In order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and

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 of the City of Talladega, Alabama, 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 provisions of §11-68-1, et seq., Code of Alabama (1975), as amended.

SECTION II: DEFINITIONS:

A. "Certificate of Appropriateness" - Means a document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

B. "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 relative to the foregoing.

C. "Exterior Environmental Features" - Means all those aspects of the landscape or the development of a site which affect the historical character of the property.

D. "Historic District" - Means a geographically definable area designated by the City Council as a historic district.

E. "Historic Property" - Means an individual building, structure, site, object or work of art, including the adjacent area necessary for the property appreciation thereof, designated by the City Council as a historic property.

F. "Material Change in Appearance" - Means a change that will effect either the exterior architectural or environmental features of a historic property or any building, structure, site, object, landscape feature or work of art within a historic district, such as:

1. A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;

2. Demolition or relocation of a historic structure;

3. Commencement of excavation for construction purposes;

4. A change in the location or advertising visible from the public right-of-way; or

5. The erection, alteration, restoration or removal of any building or other structure within a historic property or district, including walls, fences, steps and pavements or other appurtenant features.

Section III: CREATION OF A HISTORIC PRESERVATION COMMISSION:

A. Creation of the Commission: There is hereby created a commission whose title shall be "Talladega Historic Preservation Commission".

B. Commission Members: Number, Appointment, Terms, Compensation and Rules and Standards: The Commission shall be composed of seven (7) members nominated by the Mayor and appointed by the City Council. All members shall be bona fide residents of the City of Talladega and shall be persons who have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law, or who shall be residents of an historic district designated pursuant to this ordinance. Not more than one member of the Commission shall be a municipal official.

Members shall serve three year terms. Members may be reappointed. In order to achieve staggered terms, initial appointments shall be: Two (2) members for one (1) year; two (2) members for two (2) years; and three (3) members for three (3) years. Members shall not receive compensation, although they may be reimbursed for expenses incurred on behalf of the Commission.

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

Vacancies on the Commission shall be filled by persons nominated by the Mayor and appointed by the City Council. Such appointments shall be for the unexpired term of the member replaced.

Members of the Commission shall elect a chairman and a vice chairman and such other officer 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.

The Commission shall have the flexibility to adopt rules and standards without amendment to this ordinance.

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. Public notice must be provided prior to any special meetings.

2. Minutes of all decisions and actions of the Commission, including the reasons for making these decisions, must be kept on file and available for public inspection.

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 adopted by the Commission must be available for public inspection.

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

D. Statement of the Commission's Powers and Duties:

The Commission shall be authorized to:

1. Preserve and protect buildings, structures and sites of historic and architectural value in the historic districts designated pursuant to that ordinance;

2. Prepare a survey of all property within the territorial jurisdiction of Talladega, Alabama, or its police jurisdiction;

3. Recommend to the City Council specific places, districts, sites, buildings, structures, objects or works of art to be designated by ordinance as historic properties or historic districts;

4. Restore and preserve any historic properties acquired by the City of Talladega or acquired by the Commission;

5. Promote acquisition of facade and conservation easements by the City of Talladega or by the Commission;

6. Develop and conduct educational programs on historic projects and districts designated pursuant to the ordinance and on general historic preservation subjects and activities;

7. Make such investigations and studies of matters relating to historic preservation, including employment of historic preservation experts the City, or the Commission itself, may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;

8. Seek out and apply for local, state, federal and/or private funds for historic preservation and make recommendations to the City Council concerning the most appropriate uses of any funds acquired;

9. 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;

10. Investigate, survey and process nominations of properties to the National Register of Historic Places;

11. Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;

12. 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;

13. Prepare and maintain an inventory of all property within the City of Talladega having the potential for designation as historic property;

14. Review applications for Certificates of Appropriateness and grant or deny same in accordance with the provisions of this ordinance;

15. Recommend to the City Council that the designation of any place, district, site, building, structure, objects or work of art as a historic property or as a historic district be revoked or removed;

16. Perform historic preservation activities as the official agency of the Talladega historic preservation program;

17. Employ persons, if necessary, to carry out the responsibilities of the Commission;

18. Receive donations, grants, funds or gifts of historic property;

19. Review and make comments to the Alabama Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;

20. Investigate, survey and assist the Alabama Historical Commission in processing nominations of properties to the National Register of Historic Places;

21. Investigate, survey and assist the Alabama Historical Commission in processing applications for certification of historical properties for tax credits for preservation expenditures; and

22. Exercise such further powers as the Commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the Commission.

E. Annual Reports of the 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 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 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. The report shall document attendance at the orientation/training session, as specified in Section 3, H and I.

F. Conflict 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 will be forbidden from presenting, voting or discussing the project, other than answering a direct question.

G. Records of Commission Meetings:

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

H. Responsibilities of Commission Members:

Each Commission member and anyone serving the Commission in a technical/professional staff capacity is required to attend at least two informational or educational meetings per year pertaining to historic preservation. Such meetings may include those sponsored by the Alabama Historical Commission, Board of Advisors, the National Trust for Historic Preservation or a local preservation organization. One of the two shall be a regional or statewide meeting.

I. Liaison between the Commission and the State Historic Preservation Office (Alabama Historical Commission):

Should the City Council elect to become a Certified Local Government, the City Council shall designate a paid member to the City's staff or a person working under contract as a source of technical/administrative/professional assistance to be responsible for the operations of the Commission in keeping with 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 technical staff, and/or a representative appointed by the Mayor who has an ongoing relationship with the Commission, will attend the Alabama Certified Local Government orientation/training session sponsored by the Alabama Historical Commission each year.

SECTION IV: Recommendation and Designation of Historic Districts and Properties:

A. Preliminary Research by Commission:

1. 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 of Talladega.

2. 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.

3. 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 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, intrusive) of individual properties therein, or showing boundaries of individual historic properties;

   d. A statement justifying district or individual property boundaries; and

   e. Representative photographs.

B. Designation of a Historic District:

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

   a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

   b. That are associated with the lives of persons significant in our past; or

   c. That embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

   d. That have yielded or may be likely to yield information important in pre-history or history.

2. Boundaries of a Historic District: Boundaries of a Historic District shall be shown on the Zoning Map adopted and incorporated by reference in "The Talladega, Alabama, Zoning Ordinance", Ordinance No. 1120, as amended from time to time.

3. Evaluation of properties within Historic Districts: Individual properties within historic districts shall be classified as:

   a. Historic (contributes to the district);

   b. Non-historic (does not contribute, but does not detract from the district);

   c. Intrusive (detracts from the district);

C. Designation of a Historic Property:

1. Criteria for selection of Historic Properties: A historic property is a building, structure, site, object, work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the City of Talladega for one of the following reasons:

   a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

   b. That are associated with the lives of persons significant in our past; or

   c. That embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

   d. That have yielded or may be likely to yield information important in pre-history or history.

2. Boundary Description: Boundaries shall be shown on "The Talladega, Alabama, Zoning Ordinance", Ordinance No. 1120, as amended from time to time.

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 - 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;

   c. Require that a Certificate of Appropriateness be obtained from the Commission prior to any material change in appearance of the designated property; and

   d. Require that the property or district be shown on the Zoning Map adopted and incorporated by reference in "The Talladega, Alabama, Zoning Ordinance", Ordinance No. 1120, as amended from time to time.

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 at least three (3) consecutive issues in the principal newspaper of local circulation; and written notice of the hearing shall be mailed by the Commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10), nor more than twenty (20), days prior to the date set for the public hearing. A notice sent via the United States Mail to the last-known owner of the property shown on the tax roll of the Revenue Commissioner of Talladega County, 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.

4. Recommendations on Proposed Designations: A recommendation to affirm, modify or withdraw 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.

5. City Council Action on Commission Recommendation: Following receipt of the Commission's recommendation, the City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

6. Notification of Adoption of Ordinance for Designation: Within thirty (30) days following the adoption of the ordinance for designation by the City Council, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the City Council, 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 tax roll of the Revenue Commissioner of Talladega County, 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.

7. Notification of Other Agencies Regarding Designation: The Commission shall notify all municipal agencies within the City of Talladega of the ordinance for designation.

8. Moratorium on Applications for Alteration or Demolition while Ordinance for Designation is Pending: If an ordinance for designation is being considered, the Commission shall have the power to freeze the status of the involved property.

Section V. Application to Historic Preservation Commission for Certificate of Appropriateness:

A. 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 material change in the exterior appearance of such historic property, or of a structure, site, object or work of art within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a Certificate of Appropriateness has been submitted to and approved by the Commission.

B. 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, 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 Designated Districts:

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. Approval of Alterations or Demolitions of Public Property within Historic Districts or Public Property which has been designated as a Historic Property:

The requirement of a Certificate of Appropriateness shall apply to public property which has been designated as a historic property or which is contained in a historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts.

E. Color:

Changes in exterior color shall require a Certificate of Appropriateness.

F. Approval of Painting Originally Unpainted Surfaces:

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

G. Interior Alterations:

In its review of applications for Certificates of Appropriateness, the Commission shall not consider interior arrangement or use having no effect on exterior architectural features.

H. Failure to Maintain a Historic Property:

Demolition by neglect and the failure to maintain a historic property or a structure in a historic district shall constitute a change for which a Certificate of Appropriateness is necessary.

I. 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".

J. Submission of Plans to Commission:

An application for Certificate of Appropriateness shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the Commission. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site.

K. Acceptable Commission Reaction 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. The Commission shall not grant Certificates of Appropriateness for demolition or relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.

L. Public Meetings 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 public meetings scheduled from time to time at regular intervals, no less frequently than quarterly, with the date and time of each said meeting posted at the City Hall and published in a newspaper of general circulation in Talladega, Alabama, at least once, the date of said publication being at least seven (7) days prior to review of the Certificate of Appropriateness. At least seven (7) days prior to review of a Certificate of Appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give applicant and such owners an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

M. Deadline for Approval or Rejection of Application for Certificate of Appropriateness:

1. The Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of a historic property, or of a historic structure, site, object or work of art located within a historic district. Evidence of approval shall be by a Certificate of Appropriateness issued by the 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.

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

N. 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 reason for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The Commission may suggest alternative courses of action which 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.

2. In cases where the application covers a material change in the appearance of a structure 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 inspector or other administrative officer charged with issuing building permits and, in such cases, no building permit shall be issued.

O. Appeals:

Any person having a request for a Certificate of Appropriateness denied by the Commission may appeal such denial to the Circuit Court.

P. 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 applications.

Q. Requirements of Conformance with Certificate of Appropriateness:

1. All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work is performed that is not in accordance with such certificate, the Commission shall issue a cease and desist order and all work shall cease.

2. The City Council or the Commission 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.

R. Certificate of Appropriateness Void if Construction not Commenced:

A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of date of issuance. Certificates of Appropriateness shall be issued for a period of eighteen (18) months and are renewable.

S. Technical Advice:

The Commission shall have the power to seek technical advice from outside its members on any application.

SECTION VI. Maintenance of Historic Properties:

A. Expedited Review Procedures for Approval of Routine Maintenance:

The Commission may adopt expedited review procedures for approval of routine maintenance to historic properties or to buildings or structures in historic districts. Routine maintenance to historic properties includes ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay or damage, or to sustain the existing form that does not involve a material change in design, material or outer appearance. Expedited review procedures shall waive the requirements for submission of an application for a Certificate of Appropriateness and for consideration at a public meeting.

B. Failure to Provide Ordinary Maintenance or Repair:

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

1. The Commission shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Such conditions as broken windows, doors and openings which allow the elements and vermin to enter, the deterioration of exterior architectural features, or the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.

2. In the event the Commission determines a failure to provide ordinary maintenance or repair, the Commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property will have ninety (90) days within which to initiate this.

3. In the event that the condition is not met in ninety (90) days, the owner shall be punished as provided in Section VIII of this ordinance and, at the direction of the City Council, the Commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the Commission.

SECTION VII. Building and Zoning Code Provisions.

A. Affirmation of Existing Building and Zoning Codes:

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.

SECTION VIII. Penalty Provisions.

Any person violating any provision of this ordinance shall, upon conviction, be punished by a fine of not less than One Dollar ($1.00), nor more than Five Hundred Dollars ($500.00). In addition thereto, any person so convicted may be imprisoned or sentenced to hard labor for the City for a period not exceeding six (6) months, at the discretion of the court trying the case; provided, however, that no penalty shall consist of a fine or sentence of imprisonment exceeding the maximum established under State law for the commission of substantially similar offenses.

SECTION IX. Severability.

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 X. Repealer.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION XI. Effective Date.

This ordinance shall take effect immediately upon its passage and publication, as provided by law.

Charles F. Miller
Robert F. Duncan
Edythe J. Jones
Ben Payne
J. E. Watts
Members of Council

APPROVED this 5th day of JANUARY, 1990.

George Montgomery
Mayor

APPROVED and ATTESTED this 5th day of JANUARY, 1990.

Frank Schmidt
City Clerk