

NOTICE

A PORTION (OR THE ENTIRETY) OF THIS PROPOSED DOCUMENT IS UNDER REVIEW BY DEPARTMENT HEADS. UNLESS OTHERWISE NOTED, PORTIONS OF THE TEXT THAT APPEAR IN ITALICS ARE ADDITIONS OR PROPOSED CHANGES TO THIS ORDINANCE.

FOR READABILITY, THE TERMS IN THE DEFINITION SECTION OF THIS ORDINANCE ARE IN ITALICS AND ARE BASED ON EITHER WEBSTER'S UNABRIDGED DICTIONARY OR ACCEPTABLE PLANNING TERMS. HOWEVER, IF THE ENTIRETY OF A DEFINITION APPEARS IN ITALICS INSTEAD OF THE TERM ITSELF, THE ENTIRE DEFINITION IS AN ADDITION.

PROPOSED HISTORIC PRESERVATION ORDINANCE

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SECTION I STATEMENT OF PURPOSE

The city hereby recognizes that the City of Starkville is known for unique qualities that have proven increasingly attractive to residents, business interests, and tourists.

As a matter of public policy the city aims to preserve, enhance, and perpetuate those aspects of the city having historical, cultural, architectural, and archaeological merit. Such preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting Starkville.

More specifically, this historic preservation ordinance is designed to achieve the following goals:

- A. Protect, enhance and perpetuate resources that represent distinctive and significant elements of the city's historical, cultural, social, economic, political, archaeological, and architectural identity;
- B. Insure the harmonious, orderly, and efficient growth and development of the city;
- C. Strengthen civic pride and cultural stability through neighborhood conservation;
- D. Stabilize the economy of the city through the continued use, preservation, and

revitalization of its resources;

- E. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
- F. Promote the use of resources for the education, pleasure, and welfare of the people of the City of Starkville.
- G. Provide a review process for the preservation and appropriate development of the city's resources.

SECTION II DEFINITIONS

Unless specifically noted otherwise, the following definitions are standard throughout this ordinance:

Alteration: Any change to a resource because of construction, repair, maintenance, or other means. Alterations shall include painting of previously unpainted brick, repointing of brickwork and sandblasting.

Applicant: The owner of record of a resource; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a "bona fide" contract to purchase a resource.

Appurtenance: An accessory to a building, structure, object, or site, including, but not limited to, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs.

Building: A structure created to shelter any form of human activity, such as a house, garage, barn, church, hotel, or similar structure.

Certificate of Appropriateness: A document evidencing the approval of the Commission for work proposed by an applicant.

Certified Local Government (CLG): A federal program authorized by the National Historic Preservation Act 16 U.S.C. 470 et seq., that provides for the participation of local governments in a federal/state/local government preservation partnership. The federal law directs the state Historic Preservation Officer of Mississippi and the Secretary of the Interior to certify local governments to participate in this partnership. Specific Mississippi requirements for the program are published in "State of Mississippi, Guidelines and Regulations of the Certified Local Government Program."

City: The City of Starkville, Mississippi as represented by the Mayor and Board of Aldermen.

Commission: The Starkville Preservation, a local historic preservation commission created pursuant to Mississippi Code Ann. 1972 Sec 39-13-5 as amended.

Construction: The addition or placement of any improvement to a resource.

Demolition: The complete or partial removal of a building, structure, object, or site, including landscape features.

Demolition by Neglect: Improper maintenance or lack of maintenance of any resource, which results in substantial deterioration of the resource and threatens its continued preservation.

Exterior Features: Exterior features or resources shall include, but not be limited to, the kind and texture of the building material and the type and style of all windows, doors, and appurtenances.

Improvement: Additions to or new construction on landmarks or landmark sites, including, but not limited to, buildings structures, objects, landscape features, and manufactured units, like mobile homes, carports, and storage buildings.

Landmark: A building, structure, or object, and its historically associated land or other appropriate setting, designated by the commission and approved by the city through an ordinance, which possesses particular architectural, cultural, or historic significance by meeting at least one of the following criteria source:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history or the nation, region, state, county, or city; or,
- B. Is identified with historic personages or with important events in national, state, or local history; or,
- C. Embodies distinguishing characteristics of a landscape type or is a specimen inherently valuable for the study of a period, style of a period, style, method of construction, or use of indigenous materials or craftsmanship; or
- D. Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his age.

Landmark Site: An unimproved or improved parcel of ground designated by the commission and approved by the City through an ordinance, which possesses particular archaeological, architectural, geological, or historic significance. A landmark site differs from a landmark in that the physical location, not the building, structure, or object, possesses primary significance. For the purposes of this ordinance, a landmark site encompasses prehistoric or historic sites on unimproved or improved land. Landmark sites meet at least one of the following criteria:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, region, state, county, or city; or
- B. Is identified with historic personages or with important events in national, regional, state, or local history; or
- C. Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship.

Landscape: Any improvement or vegetation including, but not limited to: shrubbery, trees, plantings, outbuildings, walls, courtyards, fences, swimming pools, planters, gates, street furniture, exterior lighting, and site improvements, including but not limited to, subsurface alterations, site regrading, fill deposition, and paving.

National Historic Landmark: A district, site, building, structure, and/or object that has been formally designated as a National Historic Landmark by the Secretary of the Interior and possesses exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archaeology, engineering, and culture and that possesses a high degree of integrity of location, design, setting, materials, workmanship, feeling, and

association. National Historic Landmarks are automatically listed in the National Register.

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The National Register Program is administered by the Commission, by the State Historic Preservation Office, and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed or determined eligible for listing in the National Register.

Object: A material thing of functional, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

Ordinary Repair or Maintenance: Work done to prevent deterioration of a resource or any part thereof by returning the resource to its condition prior to such deterioration, decay, or damage. Ordinary Repair or Maintenance includes repainting.

Owner of Record: The owner of a parcel of land, improved or unimproved, reflected on the city tax roll and in county deed records.

Preservation District: A district designated by the commission and approved by the city through an ordinance, which contains a geographically definable area, urban or rural, possessing a significant concentration of sites, buildings, structures, or objects associated by past events or by plan or physical development, and which meets at least one of the following criteria:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or city; or
- B. Is identified with historic personages or with important events in national, state, or local history; or
- C. Embodies distinguishing characteristics of architectural types or contains examples inherently valuable for the study of periods, styles, methods of construction, or uses of indigenous materials or craftsmanship; or
- D. Is representative of the notable work of master builders, designers, or architects whose individual abilities have been recognized or who influenced their eras.

Relocation: Any changes in the location of a building, object, or structure in its present setting or to another setting.

Resource: Parcels located within preservation districts, individual landmarks, and landmark sites, regardless of whether such sites are presently improved or unimproved. Resources can be separate buildings, districts, structures, sites, and objects and related groups thereof.

Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings: A federal document stating standards and guidelines for the appropriate rehabilitation and preservation of historic buildings.

Site: The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, or objects.

State Historic Preservation Office: The Historic Preservation Division of the Mississippi Department of Archives and History.

State Historic Preservation officer. The Director of the Mississippi Department of Archives and History.

Structure: A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man. The term includes, but is not limited to engineering projects, earthworks, boats, barges and bridges.

Unreasonable Economic Hardship: The inability of an owner to obtain a reasonable return or a reasonable beneficial use from a resource as required by the United States Supreme Court in Perm Central Transportation Company VCR. New York City, 438 U.S. 104 (1978), and subsequent decisions.

SECTION III STARKVILLE PRESERVATION COMMISSION, COMPOSITION, AND TERMS

By virtue of Mississippi Code Ann. 1972, Sec. 39-13-5 as amended, the City is authorized to establish a preservation commission to preserve, promote, and develop the City's historical resources and to advise the city on the designation of preservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.

There is hereby created the Starkville Preservation Commission

All members of the commission are appointed by the City and shall serve at the will and pleasure of the City. The commission shall consist of not fewer than nine (9) members resident in the City of Starkville unless the state enabling legislation is amended to allow for a smaller commission, at which time the city may choose to decrease the size of the commission in conformity with state law. The initial, appointment of commission members by the city shall include three (3) members having a term of three (3) years, three members having a term of two (2) years, and three (3) members having a term of one (1) year; thereafter, all appointments shall be for a period of three years. Commission members shall be eligible for reappointment and serve at the pleasure of the Mayor and Board. There shall be one member from each ward and two members serving the city at large. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation. To the extent available in the community, the City shall appoint professional members from the primary historic preservation-related disciplines such as urban planning, American history, cultural geography, cultural anthropology, architecture, interior design, landscape design, construction, law, real estate appraisal, and related fields. In conformity with the "State of Mississippi, Guidelines and Regulations for the Certified Local Government Program," the City shall document a "good faith effort" to locate professionals to serve on the commission before appointing lay members.

- A. The city shall publish at least one notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals in the related fields of historic preservation and who are interested in serving on the commission. The city may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form.
- B. The city shall provide three (3) weeks (15 working days) for responses. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but will not be limited to, educational and professional background, membership in appropriate preservation organizations, subscriptions to suitable professional

publications, volunteer work, attendance at workshops and seminars, and other relevant experience.

- C. When the City has collected adequate information concerning the potential appointees to the commission, it shall decide, with the assistance of die State Historic Preservation Office, if desired, which candidates can be considered professionals and thereby qualified for appointment to the commission.

SECTION IV POWERS OF THE COMMISSION

In order to preserve, promote, and develop the distinctive appearance and the historic resources of Starkville and to accomplish the purposes set forth in Mississippi Code Ann. 1972, Sec. 39-13-5 as amended, and in this ordinance:

- A. The Commission shall conduct or cause to be conducted a continuing study and survey of resources within the City of Starkville.
- B. The commission shall hold public hearings and make recommendations to the Mayor and Board of Aldermen of the city for the adoption of ordinances designating preservation districts, landmarks, and landmark sites and final designation shall rest with the Mayor and Board. Property owners inside the proposed preservation district may petition the Mayor and Board of Aldermen for removal of their property from the proposed district. All properties presently listed in the National Register of Historic Places and located within the Jurisdiction of the City of Starkville, whether publicly or privately owned, will be considered for designation as landmarks, landmark sites, and preservation districts, whichever category is appropriate, with suitable boundaries which shall be similar to but not smaller than the boundaries for National Register purposes
- C. The Commission shall review applications proposing construction, alteration, demolition, or relocation of any resource located in an historic district.
- D. The Commission shall grant or deny certificates of appropriateness (within the rules and regulations of City zoning and building codes and within the guidelines established by the commission) The Commission may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions.
- E. The Commission shall not consider interior arrangements of buildings and structures except that it shall advise the Mississippi Department of Archives and History on questions relating to the interiors of publicly owned resources.
- F. The Commission, subject to the requirements of the city, is authorized to apply for, receive, hold and spend funds from private and public sources, in addition to appropriations made by the City for the purpose of carrying out the provisions of this ordinance.
- G. The Commission, subject to the requirements of the City, is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain equipment, supplies, and other materials necessary for its effective operation.
- H. The Commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land for the examination or survey thereof. No member, employee, or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof.

SECTION V RULES OF PROCEDURE

To fulfill the purposes of this ordinance and carry out the provisions contained therein:

- A. Annually the Commission shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.
- B. The Commission shall develop and adopt rules of procedure, which shall govern the conduct of its business, subject to the approval of the City. Such rules of procedure shall be a matter of public record.
- C. The Commission shall develop design review guidelines for determining appropriateness as generally set forth in Section VII of this ordinance. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards For Rehabilitation.
- D. The Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record to be kept in the Planning and Development Department.
- E. The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the initial appointment of the commission by the city and regular meetings shall be scheduled monthly unless no applications are brought before the commission; in which case, a regular monthly meeting may be cancelled by the chairman or any two (2) members; however, the commission must conduct a regular meeting at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter.

SECTION VI DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS

By ordinance, the city may establish landmarks, landmark sites, and preservation districts within the area of its jurisdiction. Such landmarks, landmark sites, or preservation districts shall be designated following the criteria as specified in Section II.

- A. The Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The commission shall work toward providing complete documentation for previously designated preservation districts, which would include:
 - 1. An inventory of all property within the boundary of the district, with photographs of each building and an evaluation of its significance to the district. Building evaluations are to be used only as a reference or guide and shall not be used as the determining factor for issuing or denying a certificate of appropriateness.
 - 2. An inventory which would be in format consistent with the statewide inventory

- format of the Historic Preservation Division of the Mississippi Department of Archives and History. The Commission shall advise the City on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.
- B. A resource or resources may be nominated for designation upon motion of three (3) members of the commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the Commission. The Commission must reach a decision on whether to recommend a proposed nomination to the city within six (6) months in the case of a preservation district and two (2) months in the case of either a landmark or landmark site.
 - C. If the Commission votes to recommend to the City the designation of a proposed resource, it shall promptly forward to the city its recommendation, in writing, together with an accompanying file.
 - D. The Commission's recommendations to the City for designation of preservation district shall be accompanied by:
 - 1. A map of the preservation district that clearly delineates the boundaries.
 - 2. A verbal boundary description and justification.
 - 3. A written statement of significance for the proposed preservation district.
 - E. No preservation district or districts shall be designated until the Mississippi Department of Archives and History, acting through such agent or employee as may be designated by its director, shall have made an analysis of, and recommendations concerning, the proposed district boundaries. Failure of the department to submit its analysis and recommendations to the City within sixty (60) days after a written request for such analysis has been mailed shall relieve the City of any responsibility for awaiting such analysis; and the City may at any time thereafter take any necessary action to adopt or amend its ordinance.
 - F. If a proposed ordinance is to designate a landmark or landmark site, it may be presented to the City with a recommendation that it be adopted without submission to the Mississippi Department of Archives and History.
 - G. The City shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the city. If a newspaper is not published in the city, then the notice shall be published in a paper published in the county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in the resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date.
 - H. Within sixty (60) calendar days after the public hearing held in connection herewith, the City shall adopt the ordinance creating the district as proposed, reject it entirely, or adopt the ordinance with modifications.
 - I. Furthermore, the Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and preservation districts. An updated list and map shall be maintained by such agencies and made available to the public.

SECTION VII CERTIFICATES OF APPROPRIATENESS

No exterior feature of any resource shall be altered, relocated, or demolished until an application for a certificate of appropriateness of such work has been approved by the Commission. Likewise, no construction, which affects a resource, shall be undertaken without a certificate of appropriateness. Therefore,

- A. The commission shall serve as a review body with the power to make recommendations to the building official and to approve or deny applications for certificates of appropriateness.
- B. In approving and denying applications for certificates of appropriateness, the commission shall seek to accomplish the purposes of this ordinance.
- C. A certificate of appropriateness shall not be required for work that is ordinary repair or maintenance of any resource.
- D. All decisions of the Commission shall be in writing and shall state the findings of the commission, its recommendations, and the reasons thereof.

SECTION VIII CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Commission and the City shall use the following criteria in granting or denying certificates of appropriateness:

- A. General Factors:
 - 1. Architectural design of existing building, structure, or appurtenance and proposed alteration;
 - 2. Historical significance of the resource;
 - 3. General appearance of the resource;
 - 4. Condition of the resource;
 - 5. Materials composing the resource;
 - 6. Size of the resource;
 - 7. The relationship of the above factors to, and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural, historical character and integrity.
- B. New construction:
 - 1. In advance of new construction, steps shall be taken to ensure evaluation of possible archaeological resources, as set forth in the Mississippi Antiquities Act.
 - 2. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, the materials, the textures, the patterns, the trims, and the design of the roof.

3. Existing rhythm created by existing building masses and spaces between them shall be preserved.
4. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.
5. No specific architectural style shall be required.

C. Exterior alteration:

1. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources with -which it is related, as is provided in Section VIII A and B; and the original design of a building, structure, object, or landscape feature shall be considered in applying these standards.
2. Exterior alterations shall not affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.

D. In considering an application for the demolition of a landmark or a resource within a preservation district, the following shall be considered:

1. The Commission shall consider the individual architectural, cultural, and/or historical significance of the resource.
2. The Commission shall consider the importance or contribution of the resource to the architectural character of the district.
3. The Commission shall consider the importance or contribution of the resource to neighboring property values.
4. The Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.
5. Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional commission action on demolition, following the Commission's recommendation of a permit for new construction. Permits for demolition and construction shall be issued simultaneously, if requirements of Section VIII B are met and the applicant provides financial proof of his ability to complete the project.
6. When the Commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, department and agencies.

SECTION IX PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

Anyone desiring to take action requiring a certificate of appropriateness concerning a resource for which a permit, variance, or other authorization from either the city building official or the city is also required, shall therefore make application in the form and manner required by the applicable code section or ordinance. Any such application shall also be considered an

application for a certificate of appropriateness and shall include such additional information as may be required by the Commission. After receipt of any such application, the city building official shall be assured that the application is proper and complete. No building permit shall be issued by the city building official, which affects a resource without a certificate of appropriateness. In the event that a building permit need not be obtained for a building, structure, or object to be erected within a preservation district or on a landmark or landmark site, a certificate of appropriateness is still required before such building, structure, or object may be erected. Thereafter, such application shall be reviewed in accordance with the following procedure:

- A. When any such application is filed, the city building official shall immediately notify the Commission chairman, or vice-chairman if the chairman is unavailable, of the application having been filed.
- B. The applicant shall, upon request, have the right to a preliminary conference with a member of the Commission or of the Commission staff for the purpose of making any changes or adjustments to the application, which might be more consistent with the commission's standards.
- C. Not later than fifteen (15) days before the date set for the said hearing, the City building official shall mail notice thereof to the applicant at the address in the application and to all members of the commission.
- D. Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the city at least fifteen (15) days before such hearing and by posting such notice on die bulletin board in the front of city hall.
- E. At such hearing, the applicant for a certificate of appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the governing body shall have the right to present any additional relevant evidence in support of the application.
- F. The Commission shall have the right to recommend changes and modifications to enable the applicant to meet the requirements of the Commission.
- G. Within not more than twenty-one (21) days after the hearing on an application, the Commission shall act upon it, either approving, denying, or deferring action until the next meeting of the Commission, giving consideration to the factors set forth in Section VIII hereof. Evidence of approval of the application shall be by certificate of appropriateness issued by the Commission and, whatever its decision, notice in writing shall be given to the applicant and the City building official.
- H. In all cases of applications affecting National Historic Landmarks, at least two-thirds (six members of a nine-member board) of the members of the commission must approve a certificate of appropriateness in order for it to be granted.
- I. The issuance of a certificate of appropriateness shall not relieve an applicant for a building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the city concerning zoning, construction, repair, or demolition.

SECTION X APPEALS

The applicant who desires to appeal a decision by the Commission shall file an appeal to the Director of Planning who will forward this appeal to the Mayor and Board of Aldermen for

presentation at their next regularly scheduled meeting, through the City Clerk of the City of Starkville as provided by law.

SECTION XI MINIMUM MAINTENANCE REQUIREMENTS

In order to insure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the City's minimum housing code and the City's building code.

SECTION XII DEMOLITION BY NEGLECT

- A. Any resource which is a landmark and all resources within a preservation district shall be preserved by the owner or such other person or persons as may have the legal custody or control thereof against decay, deterioration, and free from unreasonable structural defects. The owner or other person having legal custody and control thereof shall repair such resource if it is found to have one or more of the following defects:
1. Deterioration to the extent that it creates or permits a hazardous or unsafe condition as determined by the City's building inspector.
 2. Deterioration, as determined by the building inspector, of a building characterized by one or more of the following:
 - a. Those buildings, which have parts thereof, which are so attached that they may fall and injure persons or property;
 - b. Deteriorated or inadequate foundations;
 - c. Defective or deteriorated floor supports or floor supports inefficient to carry imposed loads with safety;
 - d. Members of walls or other vertical supports that split, lean, list, or buckle due to defective material, workmanship, or deterioration.
 - e. Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
 - f. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members, which sag, split, or buckle due to defective material, workmanship, or deterioration.
 - g. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;
 - h. Fireplaces or chimneys which list, bulge, or settle due to defective material, workmanship, or deterioration; or
 - i. Any faults, defect, or condition in the building, which renders the same structurally unsafe or not properly watertight.
- B. If the Commission makes a preliminary determination that a resource is being demolished by neglect, it shall direct the city building official to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore, and shall give the owner of record thirty (30) days from the date of mailing of such

notice or the posting thereof on the property, whichever comes later, to commence work to correct the specific defects as determined by the commission. Said notice shall be given as follows:

1. By certified mail, restricted delivery, mailed to the last known address of the record owner or owners as listed on the city and/or county tax rolls; or
2. If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource. If the owner or owners fail to commence work within the time allotted as evidenced by a building permit, the commission shall notify the owner or owners in the manner provided above to appear at a public hearing before the Commission at a date, time, and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of insuring lawful notice, a hearing may be continued to a new date and time. The Commission shall receive evidence on the issue of whether the subject resource should be repaired and the owner or owners may present evidence in rebuttal thereto by neglect, it may direct the City building official to bring misdemeanor charges against that owner.

SECTION XIII PUBLIC SAFETY EXCLUSION

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

- A. The city building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the commission in writing.
- B. The preservation commission, if in doubt after receiving such notification from the city building official, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a certificate of appropriateness for the demolition. The Commission may indicate in writing appropriateness for the demolition. The Commission may indicate in writing by letter to the city building official that it will require a time period of up to thirty (30) days for this purpose, and, upon such notification to the city building official, this section shall be suspended until the expiration of such a delay period.

SECTION XIV ENFORCEMENT AND PENALTIES

The following civil and criminal penalties may be imposed upon those persons, firms, or corporations found to have violated requirements or prohibitions contained within this ordinance.

- A. Civil Penalty:

Any person who constructs, alters, relocates, or demolishes any resource in violation of

this ordinance shall be required to restore the resource to its appearance or setting prior to the violation. Any action to enforce this provision shall be brought by the City of Starkville upon the recommendation of the Commission. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

B. Criminal Penalty:

Any persons, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate violation for each day during which any violation hereof is committed. Upon conviction, each violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00).

SECTION XV APPROPRIATIONS

The City is authorized to make appropriations to the commission necessary for the expenses of the operation of the commission.

SECTION XVI TITLE TO PROPERTY ACQUIRED

All property acquired by funds appropriated by the city shall be acquired in the name of the city unless otherwise provided by the City. So long as owned by the City, properties may be maintained by or under the supervision and control of the City. However, all property acquired by the commission from funds other than those appropriated by the city may be acquired and held in the name of the Commission, the city, or both. Whenever the Commission shall hold title to properties in its own name, such properties shall be administered in accordance with this and other city ordinances.

SECTION XVII NON-RESTRICTIVE CLAUSE

Nothing in this ordinance shall be construed to prevent the regulation or acquisition of property, improved or unimproved, by the State of Mississippi or any of its political subdivisions, agencies, or instrumentalities or by the United States of America or any of its political subdivisions, agencies, or instrumentalities.

Furthermore, the City of Starkville hereby acknowledges that the Mississippi State Antiquities (39-7-1 et. seq. of the Mississippi Code of 1972, as amended in 1983), provides for the sensitive treatment of publicly owned property, improved or unimproved, shown to possess certain architectural, historical, or archaeological significance, which are designed by the Board of Trustees of the Mississippi Department of Archives and History as Mississippi Landmarks. Whenever the city proposes to rehabilitate, alter, or enlarge a Mississippi Landmark (or proposes similar actions, which would affect a Mississippi Landmark) the city shall submit its plans to the Mississippi Department of Archives and History for review and compliance.

SECTION XVIII DISQUALIFICATION OF MEMBERS BY CONFLICTS OF INTEREST

Because the City may possess few residents with experience in the individual fields of urban planning, American history, cultural geography, cultural anthropology, architecture, interior design, landscape design, construction, law, real estate appraisal and related fields, and in order not to impair such residents from practicing their trade for hire, members of the commission are allowed to contract their services to an applicant for a certificate of appropriateness, and, when doing so, must expressly disqualify themselves from the commission during all discussions for that application. In such cases, the city may, upon the request of the chairman of the commission or the vice-chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member, and who will serve for that particular case only. If no qualified resident of the city is able to substitute for the disqualified member, the City may appoint, in this case only, a qualified substitute who must be resident of Mississippi but who is not required to be a resident of Starkville. If any member of the Commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall encourage the member to resign his commission seat. Failing this resignation, and, if the commission member continues to enter into conflict of interest situations with the Commission, the chairman or vice-chairman of the Commission shall encourage the City to replace the member. Likewise, any member of the commission who has an interest in the property in question or in property within three hundred feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the commission shall be disqualified from participating in the consideration of any request for a certificate of appropriateness involving such a property. In such cases, a qualified substitute may be appointed as provided above.

SECTION XIX SEVERABILITY

The requirements and provisions of this ordinance are separable. If any article, section, paragraph, sentence, or portion thereof, be declared by any court of competent jurisdiction to be void, invalid, or inoperative, the decision of the court shall not affect the validity or applicability of the ordinance as a whole or of any part thereof other than the part held void, invalid, or otherwise inoperative.

SECTION XX CONFLICTING ORDINANCES

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION XXI CONFLICT WITH THE MISSISSIPPI ANTIQUITIES ACT

Likewise, all ordinances and part of ordinances in conflict with the Mississippi Antiquities Act (39-7-1 et. seq. of the Mississippi Code of 1972, as amended in 1983) are hereby repealed.

SECTION XXII EFFECTIVE DATE

This ordinance shall become effective one month after its passage.

