ORDINANCE #1756

AN ORDINANCE CREATING THE PRICHARD HISTORICAL COMMISSION AND PRESCRIBING THE DUTIES AND POWERS THEREOF.

WHEREAS, THE CITY COUNCIL OF THE CITY OF PRICHARD Deem it necessary, in order to establish a historic preservation commission that will preserve and protect the buildings, sites, structures, areas and districts of historic significance, architectural, archaeological and aesthetic heritage in the City of Prichard and promote these attractions to tourists and visitors; provide for the membership, the qualifications and terms, the powers, duties, and appointments to such commission; prescribe that certain reporting shall be made to the Alabama Historical Commission and to the City Council; provide for the reimbursement of expenses of members, the rules of procedures for operations, and notice of meetings; provide that this commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes; prescribe that certain restrictions shall be placed on designated properties, and provide exceptions thereto; provide for appeals and other judicial processes; provide for exceptions to certain highways, roads, streets, utility structures or facilities or bridges, including the properties utilized in connection therewith, and provide that the provisions of this ordinance are cumulative.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD AS FOLLOWS:

Section 1. Establishment. The purposes of this ordinance are to provide for the establishment of a Historic Preservation Commission, and to promote the educational, cultural, economic and general welfare of the City of Prichard: through the preservation and protection of buildings, sites, and structures, areas and districts of historic significance and interest; through the preservation and enhancement of the national, state, and local historic, architectural, archaeological and aesthetic heritage found in the City of Prichard; and through the promotion and enhancement of Prichard's historic and aesthetic attraction to tourists and visitors.

Section 2. Statement of Purpose. Pursuant to Act 89-536, the City Council of the City of Prichard elects to provide for the creation, protection and enhancement of historic properties or historic districts and to establish a Historic Preservation Commission, herein after referred to as the Prichard Historical Commission, and to carry out the purposes and responsibilities of this ordinance.

Section 3. Membership (a) The Prichard Historical Commission created by this ordinance enacted pursant to Act # 89-536 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 or law, or who shall be residents of a historic district designated pursuant to this ordinance. Members of this commission shall be bona fide residents of the territorial jurisdiction of the City of Prichard. **Not more than one** member of this commission shall be a public official.

(b) Members of the commission shall be nominated by the Mayor and appointed by the City Council of the City of Prichard. Nomination and appointment of members of the commission shall be made so as to ensure that the commission will be composed of persons with as much of the training and experience specified in Section 3(a) of this ordinance as is possible.

(c) Except for the original members of the commission, members of the commission shall serve three (3) year terms and shall be appointed in such manner so as to serve overlapping terms. Two (2) of the original members of the commission shall be appointed to serve one (1) year terms, two (2) of the original members of the commission shall be appointed to serve two (2) year terms, and the remaining three (3) members of the commission shall be appointed to serve three (3) year terms. Members of the commission may be reappointed.

(d) Members of the commission may be removed for cause by the City Council of the City of Prichard.

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

(f) Members of the Commission shall elect a chairman and a vice chairman and such other officers as the members deem necessary. The commission shall adopt rules of procedure and by-laws to govern its operations and shall communicate those rules of procedure and by-laws to the City Council. The rules of procedure and by-laws of the commission shall specify what number of members of the commission constitutes a quorum.

(g) Members of the commission shall serve without compensation but may be reimbursed for expenses incurred on behalf of the commission in accordance with the rules and regulations for the reimbursements of expenses adopted by the commission.

(h) The commission may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of this ordinance.

(i) 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 of the City of Prichard and the Alabama Historical Commssion.

(j) Meetings of the commission shall be public meetings and shall be held at times and places and pursuant to such notices specified in this ordinance.

Section 4. Nonprofit Status. The Historical Commission shall constitue a non-profit governmental agency whose funds shall be used exclusively for public purposes. This commission shall have tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements, and the contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

Section 5. Authority. The Historical Commission created by this ordinance shall be authorized to:

(a) Preserve and protect buildings, structures, and sites of historic and architectural value in the historic districts designated pursuant to this ordinance;

(b) Prepare a survey of all property within the territorial jurisdiction of the City of Prichard

(c) Recommend to the City Council of Prichard buildings, structures, sites, and districts for designation as historic properties or districts;

(d) Restore and preserve any historic properties acquired by the City of Prichard or acquired by the commission;

(e) Promote acquisition of facade and conservation easements by the City of Prichard or by the commission;

(f) Develop and conduct educational programs on historic projects and districts designated pursuant to this ordinance and on historic preservation subjects;

(g) Make such investigations and studies of matters relating to historic preservation as the City of Prichard or the commission deems necessary and appropriate for the purposes of this ordinance;

(h) Apply for funds to carry out the purposes and responsibilities of the commission from municipal, county, state, federal, and private agencies and sources;

(i) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in the carrying out the purposes and responsibilities of the commission;

(j) Investigate, survey, and process nominations of properties to the National Register of Historic Places;

(K) Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;

(l) Contract with other municipal, county, state, federal and private agencies and organizations to perform historic preservation related functions;

(m) Exercise such further powers as the commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the commission.

Section 6. Designation of Properties. (a) On recommendation of the Historical Commission, the City of Prichard, may designate historic properties and historic districts within the territorial jurisdiction of the City of Prichard.

(b) The commission shall <u>not</u> recommend designation of a historic property or historic district unless such recommendation is based on finding a survey of such property or district conducted by or for the commission, in accordance with the rules and regulations of the Alabama Historical Commission.

(c) The commission shall not recommend designation of a historic property or historic district unless it finds that the building, structure, site or district is identified with or represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation or has had 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, or if a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation. In the case of an individual building or structure, the commission may recommend designation as a historic property if the commission finds that the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the City of Prichard or which is unique to the City of Prichard. In the case of a district, the commission may recommend designation as a historic district, if the commission finds that the district contains vernacular structures which contribute to an overall character and sense of place which is representative of the City of Prichard.

Section 7. Public Hearing Requirements. (a) Before the commission shall recommend the designation of a historic property or historic district, it shall hold a public hearing on the proposed recommendation of historic designation to be held at a time and place, deemed appropriate by the members of this commission.

(b) In addition to the notice of the public hearing required pursuant to subsection (a) of this section, all owners of property to be included in the proposed historic designation, as such owners are identified in the relevant property tax rolls, if such owners can be found on reasonable inquiry, shall be notified by mail of the public hearing to be held by the commission on the proposed recommendation of historic designation.

Section 8. Notification of Historic Properties. Upon the designation of any historic property or historic district by the City of Prichard, pursuant to this ordinance, the Histori cal Commission shall give notice in writing of that designation to all agencies of the City of Prichard, and to all owners of property included in the historic designation.

Section 9. Rules and Regulations. (a) No change in the exterior appearance of a historic property or any building, structure or site within a historic district may be made, and no historic property may be demolished, and no building or structure in a historic district may be erected or demolished unless and until a certificate of appropriateness for such change, erection or demolition is approved by the Historical Commission, created by the City of Prichard. 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. 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. 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.

(b) The commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness, and no certificate of appropriateness shall be approved unless an application for a certificate of appropriateness is submitted to the commission accompanied by such drawings, photographs and plans, as may be required by the commission.

(c) The commission shall adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness.

(d) Applications for certificates of appropriateness shall be considered by the commission at public meetings and pursuant to such notices as are specified in this ordinance.

(e) The commission may adopt an expedited procedure for approval of routine maintenance to historic properties, or to buildings or structures in historic districts. Such expedited procedure may waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting.

(f) The commission shall keep a record of all applications for certificates of appropriateness and requests for approval of routine maintenance and all of its proceedings.

Section 10. Appeal Process. Any person having a request for a certificate of appropriateness denied by the Historical Commission may appeal such denial to the City Council of the City of Prichard.

Section 11. Certification Process. (a) The Historical 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. In making this determination, the commission shall consider, in addition to any other pertinent factors, the historic and architectural features involved and the proposed change thereto, and the relationship thereof, to the exterior architectural style, and pertinent features of other structures in the immediate neighborhood.

(b) In its review of applications for appropriateness, the commission shall not consider interior changes or use having no effect on the exterior of a building or structure.

(c) In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefore, in writing, to the applicant. The applicant may make modifications to its plans and resubmit the application for reconsideration at any time, after doing so.

(d) In cases where the application is for a change in the exterior of the building or structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the commission shall be binding upon the building inspector and, in such case, no building permit shall be issued.

Section 12. Legal Action of this Commission. The Historical Commission shall be authorized by the City Council of the City of Prichard to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any change in the exterior of a building or structure which is either a historic property or which is contained in a historic district or to prevent any illegal act or conduct with respect to such historic property, or historic district, and to recover any damages which may have been caused by the violation of this ordinance.

Section 13. Exceptions. The provisions of this ordinance shall not apply to a highway, road, street, bridge, or utility structure or facility, nor to any highway, road, street, bridge or utility structure or facility to be constructed or improved, including any property, building

or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith, lying or running within the City of Prichard, or within a historic district or an area designated as historic properties under this ordinance, nor to any actions taken in connection therewith by public authorities or utilities charged with responsibility of constructing, maintaining, repairing or improving any such highway, road, street, bridge or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith; provided further, however, that where property lying within an area designated as historic properties or as a historic district, pursuant to the provisions of Act No. 89-536 is sought to be utilized or acquired by any such public authority for the purpose of construction or improvement of a highway, road, bridge, utility structure or facility or street, and the provisions and requirements of Section 106, et seq., of the National Historic Preservation Act of 1966 (16 USCA 470), are applicable to the property acquisition or utilization, the public authority may utilize or acquire any such property, building or other structure or parts thereof, and change, move or demolish any building or other structure in accordance with the applicable provisions, requirements and procedure provided for under Act No. 89-536, including the requirements and procedure as applicable of the Advisory Council on Historic Preservation, Section 36, Code of Federal Regulations 800 (16 USCA 470i), and in accordance with the provisions, requirements and procedure as applicable under Section 4(f) of the U.S. Department of Transportation Act of 1966, as amended, 49 USCA 1653(f), and under 23 USCA 138.

In the event the forgoing National Historic Preservation Act or section 4(f) are not applicable to the property, building or other structure, they shall be exempt from the provisions of this ordinance.

Section 14. Cumulative Provisions. The provisions of this ordinance are cumulative and shall be construed with any and all other laws or parts of laws relating to historical preservation and architectural review, except those laws in direct conflict herewith are repealed.

Section 15. Legal Provisions. All provisions of this ordinance are severable. If any part of this ordinance is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 16. Repeal of Previous Ordinance # 1394. Ordinance # 1394 is hereby repealed.

Section 17. Adoption of this Ordinance. This ordinance shall become effective immediately upon its adoption and publication as required by law,

ADOPTED THIS FIFTH (5th) DAY OF JANUARY, 1993.

Jesse M. Norwood

JESSE M NORWOOD, MAYOR

ATTEST:

Cynthia K. Norwood

CYNTHIA K. NORWOOD, CITY CLERK