

ORDINANCE NO. O-47-07

**Amending Division 1.5 of Article VI of Chapter 130 of the City Code,
the Zoning Ordinance, and Sections 30-61, 30-62 and 130-244
of the City Code to Combine Design Review Boards**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GADSDEN,
ALABAMA, as follows:

Section 1. Division 1.5, entitled Overlay District, of Article VI, entitled District Regulations, of Chapter 130 of the City Code, entitled Zoning, is amended to read as follows:

Division 1.5 OVERLAY DISTRICT/DESIGN REVIEW

Sec. 130-201. Overlay district.

(a) This district is composed of land and structures situated in areas with existing or potentially high scenic value. The district design standards and guidelines are created to advance the economic development of the district, yet preserve and enhance its historical, cultural and architectural integrity in accordance with the improvement plan for the district.

(b) A suffix representing the respective overlay districts shall be added to the zoning designations as follows:

<u>Suffix</u>	<u>District</u>
“d”	Downtown District
“ac”	Alabama City District
“nn”	Noccalula Road/North 12 th Street District
“eh”	East Broad Street/Hoke Street District
“sb”	South 11 th Street/Black Creek Parkway District
“t”	Tuscaloosa Avenue District
“cr”	Coosa Riverfront District

(c) The Downtown Design Review District shall consist of the area zoned B-4 in the downtown area.

(d) The Alabama City Design Review District shall consist of the area zoned B-4 in the Alabama City area.

(e) The Noccalula Road/North 12th Street, East Broad Street/Hoke Street, South 11th Street/Black Creek Parkway, Tuscaloosa Avenue, and Coosa Riverfront Design Review Districts shall consist of areas described by §1 of Ordinance O-04-06.

Section 130-202. Guidelines for design review.

(a) The guidelines approved prior to 2007 by the Downtown Design Review Board and the Alabama City Design Review Board shall be the guidelines for design review in the B-4 Districts.

(b) The guidelines for all other overlay design review districts shall be as follows:

- (1) *Permitted use.* See chart in section 130-312.
- (2) *Exterior colors.* The Gadsden Design Review Board shall adopt color palettes appropriate to each overlay district.
- (3) *Street furniture.* The Gadsden Design Review Board shall adopt standards for benches, trash urns, lamp posts, and call boxes appropriate to each overlay district. Street furniture shall carry the architectural theme of the District and shall be complementary to district colors. Street furniture shall also contain a highlight of the building's and/or establishment's color scheme.
- (4) *Exterior materials.* Exterior walls shall be finished with permanent materials allowed under the building code. The following materials are not allowed:
 - (a) Vinyl siding.
 - (b) Metal siding except fascia panels and other accent areas.
 - (c) E.I.F.S. may not be used within three feet of finished grade along base or columns of buildings.
- (5) *Off-street Parking Facilities.*
 - (a) *Number of spaces required.* See Sec. 130-411(d).
 - (b) *Pedestrian Walkways.* Walkways shall connect more distant parking spaces to entrances of the development.
 - i. *Crosswalks.* Crosswalks should be installed to ensure pedestrian safety. Crosswalks shall be made of concrete pavers, stamped asphalt/concrete or a comparable material and shall be of contrasting colors. Painted crosswalks are prohibited.

ii. *Walkways.* A minimum of one landscaped pedestrian walkway must be provided for every 250 parking spaces. Pedestrian walks shall be located between every other (alternate) parking bay, a parking bay being the vehicular access aisle and parking spaces on one or both sides served by it. If parking bays exceed 300 feet in length without vehicular access to adjacent bays or to another drive or street, a pedestrian walk shall be provided between each parking bay. Required pedestrian walks shall have a four-foot clear width and such shall be protected and maintained by curbs or wheel guards. All pedestrian walks shall be paved and maintained free of standing water.

(6) *Lighting.*

See the City of Gadsden Zoning Ordinance, Section 130-411. Off-Street Parking Facilities, Subsection (C) (2) Pedestrian Walks and (6) Lighting.

(7) *Landscaping.*

(a) All sites shall have at least 10% “green” vegetated areas.

(b) Development sites must provide one 180 square foot (9’ by 20’) landscaped island for every 15 parking spaces in front parking areas and one island for every 20 spaces in all other parking areas. Up to 25 percent of the required landscaped islands may be combined to create large landscaped areas. A five-foot-wide planting strip is required between any parking row and building wall and between a parking row and a public right of way or private access drive. Landscaped islands shall be increased in size or number where the installation of planting strips adjacent to buildings is problematic.

(c) Landscaped islands/areas shall contain a mix of trees, shrubs, and turf grasses. (See §130-203 for approved plant materials requirements.) Synthetic or artificial material shall not be used in lieu of plant requirements.

(d) All landscaped areas must be watered by fixed/permanent irrigation systems.

(e) The owner, lessee, and his agents shall be responsible for providing, maintaining, and protecting all landscaping in a healthy and growing condition, and for keeping it free from refuse and debris. All unhealthy and dead materials shall be replaced in accordance with Sec. 130-205.

(8) *Signage.*

(a) New pylon/elevated signs may have a height/area of up to 35 feet/150 square feet along Meighan Boulevard and US Highway 411, 25 feet/100 square feet along George Wallace Drive and Hood Avenue, and 15 feet/75 square feet along East Broad Street, Hoke Street, Noccalula Road, 12th Street, South 11th Street, and Black Creek Parkway. Only monument/ground signs up to 3.5 feet tall and up to 100 square feet in area are permitted along all other streets. Sign height is measured from the ground to the highest element on the sign structure.

(b) One freestanding sign is allowed for each street frontage per single- or multi-establishment development (i.e. shopping centers, office buildings/complexes, etc.).

(c) Wall signs may occupy no more than 20% of a building's total wall area; however, no sign shall exceed 10% of any one wall. Roof signs are prohibited.

(9) *Additional Regulations for Riverfront District.*

(a) *Relationship of Buildings to Site.*

- i. A site clearance plan must be submitted showing existing trees, sizes, species and canopy spread to be removed. Permit requirements for clearing land are set forth in §§6-201 et. seq., regulating site clearance activities and erosion control.
- ii. All new utility services shall be located underground. All antenna, microwave disc, satellite dish and/or any other receiving, transmitting, or beamable electronic signal equipment shall be located out of public view, including pedestrian traffic in and around the proposed use. Equipment may be placed on the structure's roof, provided it is screened from the street level pedestrian and vehicular traffic and river traffic, and meets appropriate zoning and telecommunication ordinance requirements.
- iii. All restaurants adjacent to the river shall have exterior dining "patios." "Patios" shall be designed to be used in a year-round fashion, as much as is feasible by the inclusion of overhangs, arbors, etc. to provide shelter. All restaurants adjacent to the river are encouraged to provide "river service."

(b) *Relationship of Buildings and Site to Adjoining Areas.*

- i. Any new building or addition to an existing building adjoining buildings of different character or architectural styles shall be made compatible by means of screens, plantings, or materials.
- ii. Walks shall be provided between buildings (from proposed to existing) in an area to promote travel between buildings by pedestrians. Likewise, all buildings adjacent to the river shall extend a walk to the Riverwalk. If the Riverwalk is incomplete, the design shall be coordinated to include the walk at the completion of the Riverwalk.
- iii. Materials in walk surfaces should coordinate with the building. A minimum eight-foot walks on primary routes and minimum of five and one-half-foot walks on secondary and tertiary routes must be provided. All walk widths, surfaces and slopes shall meet latest ADA requirements. Pedestrian routes are to be included and clearly depicted in the proposed land use/site plan.
- iv. For property adjacent to the river, the setback from the river side shall be of sufficient size to allow for the future construction of a Riverwalk and shall be a minimum of 25 feet from the Alabama Power Company easement.
- v. Parking is prohibited on the river side of the building line. Parking is prohibited in the river setback.

(c) *Landscapes and Site Treatment.*

- i. The natural topography and vegetation of the Riverfront Development District are unique. Every effort shall be made to reflect this natural character in the landscape development of projects in the district. Design unity shall come from plant massing as is found in undisturbed areas along the banks. Use of plant materials native to the Coosa Riverfront area is strongly encouraged.
- ii. A land disturbance permit is required for all land disturbance activity, regardless of the size area disturbed. All sites shall have at least 10% “green” vegetated areas.
- iii. Service areas, including dumpsters, shall be screened with decorative walls, fences, plantings or combinations. These areas shall be effectively screened year-round. Dumpsters for single-tenant developments shall be located on either side of the building. Dumpsters for multi-tenant developments shall be located on the

sides of the development if feasible. If not, dumpsters shall be placed in the rear of the development.

- iv. Exterior lighting shall complement building and district designs. Area lighting shall be period decorative lighting. On developments adjacent to the Riverwalk, lighting will be provided to the rear entrances and along the pedestrian ways. Uplighting of trees, "Tivoli" string lighting, and seasonal lighting is strongly encouraged.

(d) *Building Design.*

- i. For property adjacent to the river, the façade facing the river shall be comparable to the façade facing the street. For new structures, provision shall be made for use of an entrance on the river side to the Riverwalk within three months after the Riverwalk is built to that location. Until the construction of the Riverwalk to that location, only a façade comparable to a front entrance shall be provided on the river side.
- ii. Buildings should have good scale and be in harmony with adjacent developments, e.g. a ten-story building in the midst of one- and two-story buildings would not be appropriate.
- iii. Type V (wood frame) construction is prohibited in those portions of the district being in the central fire district. Consult the building code for appropriate materials.
- iv. Developments should be designed for the area and climate, e.g. provide porches, wide overhangs, awnings, or sitting areas out of the elements.
- v. The use of a "stock" design is strongly discouraged. However, a "stock" design may be used if modified to provide a sense of "belonging" to the Riverfront Development District.
- vi. Architectural lighting shall be incorporated into the design concept. Façade lighting shall be through the use of down lights or other concealed lighting. The effect of the lighting is primary, not the source. The source, however, shall be decorative in nature.
- vii. Monotony of design in single or multiple buildings should be avoided.

(e) *Signage.*

- i. Signage in the district shall be understated and subtle. All signage shall be architectural elements, and as such shall express the color, materials, and lighting of the establishment they represent.
- ii. Freestanding rear signage is prohibited.
- iii. River side wall signage is required for buildings adjacent to the river. Wall signs may occupy up to 10% of a building's river side wall area.
- iv. The use of neon and internal lighting in the signage is encouraged.
- v. Multi-establishment marquees are encouraged.
- vi. The amount of changeable marquee area shall be less than 1/3 the total graphic signage area.
- vii. "Skyhook", portable, flashing, or running traveling signage is prohibited.

(10) A variance of up to 10% from the applicable guidelines is permitted. Any further or additional variance must be approved by the design review board.

(c) The board may recommend to the city council the adoption or revision of design guidelines to apply in considering granting or denying a certificate of appropriateness. Design standards for historic structures shall not conflict with the Secretary of the Interior's "Standards for Rehabilitation," 36 C.F.R. Parts 67 and 68.

Sec. 130-203. Approved Plant Material Requirements.

Approved plant material in the design review districts, other than the B-4 Districts, shall be as described by §1 of Ordinance O-04-06. The use of other plant materials must be approved by the planning department.

Sec. 130-204. Design review.

(a) *Certificate of appropriateness*

(1) *Application.* An application for a certificate of appropriateness shall first be submitted to the planning department. If the planning department does not approve the application in accordance with this article and the applicable guidelines, the applicant may appeal to the design review board.

(2) *Alterations.* No building or structure may be erected or demolished and no material change in appearance of any property or structure within a design review district shall be made unless an application for a certificate of appropriateness has been submitted to and approved by the city planning department. If a material change in appearance is made prior to review by the planning department and later is determined to be nonconforming by the board, the change must be removed by the building or business owner, or whoever was responsible for the alteration. If the change or alteration is not removed within 90 days from the date of such finding, the city shall then remove the change or alteration and charge the responsible party.

(3) *Demolition.* An application involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site. A certificate of appropriateness shall not be issued for demolition or relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.

(4) *New construction.* A certificate of appropriateness shall be issued for a new structure constructed within a design review district if the structure conforms in design, scale, building materials, setback and landscaping to the character of the district specified in the design guidelines applicable to that district.

(5) *Signs.* A sign shall be considered as a structure. No sign on a property in a design review district shall be changed, erected or demolished unless and until a certificate of appropriateness is issued and the sign meets other criteria established by the city. A plaque, historical marker, window display, holiday decoration, interior sign not visible from the outside of the structure, memorial sign, real estate sign, government sign, national flag and temporary sign pertaining to drives or events of a civic, philanthropic, educational or religious organization shall not require application for and approval of a certificate of appropriateness.

(6) *Color.* A change in exterior color requires a certificate of appropriateness subject to the expedited procedure for approval of routine maintenance.

(7) *Painting originally unpainted surface.* The painting of an originally unpainted surface requires a certificate of appropriateness.

(8) *Interior alteration.* In its review of an application for a certificate of appropriateness, the interior arrangement or a use that has no effect on exterior architectural features shall not be considered.

(9) *Exception for religious use.* The placement or removal of a religious symbol, artifact or object, including a stained glass window, does not require a certificate of appropriateness, so long as the structure remains intact and usable. The erection of a religious display does not require a certificate of appropriateness.

(b) *Submissions.* An application for certificate of appropriateness shall be accompanied by such drawings, photographs, plans or other documentation as the planning department may require. An appeal from the decision of the planning department must state the ground or basis for the appeal.

(c) *Fees.* An application for a certificate of appropriateness shall be accompanied by such fee as the city council shall set by appropriate resolution. An appeal to the design review board shall be accompanied by such fee as the city council shall be set by appropriate resolution. In the absence of such a resolution, no fee shall be required.

(d) *Action on application for certificate of appropriateness.*

(1) The planning department shall approve the application and issue a certificate of appropriateness if it finds that the proposed exterior changes are consistent with the applicable design guidelines and the proposed use and development is consistent with the land use and development policies of any applicable revitalization plan.

(2) The application for a certificate of appropriateness shall be denied if the proposed changes would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the property or the district.

(e) *Public meeting and hearing.* Appeals shall be considered by the board at a public meeting held on a regular monthly time or at a special meeting with the time and place to be established by the board. At least seven days prior to the consideration of an

appeal, the board shall post a notice of the meeting in compliance with the Open Meetings Act, including at least one conspicuous place within each district for which a proposal is to be considered at the meeting and may also publish notice of the hearing in a newspaper of general circulation. The board shall give written notice to the owners and occupants of any property it deems likely to be affected by reason of the application and shall give the applicant and any others affected by the application an opportunity to be heard.

(f) *Deadline for action on application of appropriateness.*

(1) The planning department (and the board on an appeal) shall approve, approve subject to modification or deny an application within 30 days after the receipt or hearing thereof, unless for good cause there is reason to delay a decision, including a request by the applicant. Evidence of approval shall be by a certificate of appropriateness issued by the city to the applicant. 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 city.

(2) Failure of the planning department or the board to act within said 30 days, unless the planning department or the board affirmatively acts to continue the matter, shall constitute approval. No other evidence of approval shall be needed.

(g) *Action to be taken upon rejection of application for certificate of appropriateness.*

(1) If the planning department or the board rejects an application, it shall state, in writing, its reasons for doing so and shall transmit a record of such action and reasons to the applicant within ten days of such rejection. The planning department and the board may suggest alternative courses of action it thinks proper. The applicant may modify the plans and may reapply at any time thereafter. The applicant may appeal a decision of the planning department to the board. The applicant may appeal a decision of the board to the board of zoning adjustment as provided in §130-61.

(2) Notice of action on an application shall be given to the building official. No building permit or certificate of occupancy shall be issued except in accord with an approved certificate of appropriateness.

(h) *Records.* The planning department shall keep a public record of all applications and of all proceedings in connection with such application.

(i) *Conformance with approved certificate of appropriateness.*

(1) All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. If the work performed is not in accordance with the certificate, the building official shall issue a "cease-and-desist" order and all work shall cease.

(2) The building official is authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any use, occupancy or development, except those that comply with the provisions of this chapter or to prevent any illegal act or conduct with respect to such property or district.

(j) *Time limit for commencing and completing construction.* A certificate of appropriateness becomes void unless construction is commenced within six months of the date of approval. For good cause shown, the planning department or the board may extend the original period of validity from six months to 12 months. Certificates of appropriateness are renewable in six-month increments. Construction should be completed within 24 months from the issuance of the certificate of appropriateness, but may be extended for good cause shown in six-month increments.

(k) *Technical advice.* The planning department and the board shall have the power to seek technical advice from outside its members on any application, provided funds are appropriated for this purpose.

Sec. 130-205. Maintenance of property.

(a) *Exemption of routine maintenance.* Routine maintenance to property, buildings or structures in a design review district is exempt from application for a certificate of appropriateness. Routine maintenance includes ordinary maintenance or repair of any exterior architectural or environmental feature in or on a 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. Changes in exterior color shall not be exempt.

(b) *Failure to provide ordinary maintenance or repair.*

(1) No property owner within a design review district shall allow his building to deteriorate by failing to provide ordinary maintenance or repair.

(2) The planning department and the board shall monitor and report to the building official the condition of property and existing building in a design review district to determine if they are being allowed to deteriorate by neglect. A condition such as a broken window, door or opening that allows the elements, moisture or vermin to enter, the deterioration of an exterior architectural feature, or the deterioration of a building's architectural system shall constitute failure to provide ordinary maintenance or repair.

(3) If the building official determines there is a failure to provide ordinary maintenance or repair, the building official will notify the owner of the property and set forth the steps that need to be taken to remedy the situation. The owner of such property will have 90 days in which to take corrective action.

(4) If the condition is not corrected in 90 days, the owner shall be guilty of an offense and shall be punished as provided in §1-7 of the City Code. At the direction of the city council, such maintenance or repair as is necessary to prevent deterioration by neglect may be performed by city employees or through contract. The owner of the property shall be liable for the cost of such maintenance and repair performed by the city.

Sec. 130-206. Design Review Board.

(a) *Establishment of design review board.* The Gadsden Design Review Board is hereby established to consider appeals from decisions by the city planning department not to issue a certificate of appropriateness for all designated design review districts.

(b) *Composition and terms.* The board shall be composed of eleven members. At least one member shall be a licensed architect. At least one member shall be a licensed architect, landscape architect, or other recognized design professional. At least one member shall be a resident, business owner or property owner in each council district. Two members shall be residents of the city. The mayor appoints the members of the board with the approval of the council. Members shall serve three-year terms and shall be appointed in such manner as to serve overlapping terms. Members of the board may be reappointed.

(c) *Removal.* Members of the board may be removed for cause by the mayor with the approval of the council.

(d) *Filling of vacancies.* Vacancies on the board shall be filled by persons appointed by the mayor with the approval of the council. Such appointments shall be for the unexpired term of the member replaced.

(e) *Officers, bylaws and rules of procedure.* Members of the board shall elect a chairperson and vice-chairperson and such other officers as the members deem necessary. The first election shall be held at the board's organizational meeting. Thereafter, the election shall be held annually at the meeting in the month of October. The board shall adopt such bylaws and rules of procedure as it deems necessary.

(f) *Compensation.* Members of the board shall serve without compensation, but may be reimbursed for reasonable expenses incurred on behalf of the board, provided funds are appropriated for that purpose.

(g) *Public meeting.* All meetings of the board shall be public meetings and shall be held at designated times and places as are specified by the board.

(h) *Conflict of interest.* At any time the board reviews a project in which a member of the board has ownership or other vested interest, that member will be forbidden from presenting, voting or discussing the project, other than answering a direct question.

(i) *Time for appeal.* Any applicant who is aggrieved by the decision of the planning department on an application for a certificate of appropriateness may appeal that decision to the design review board by filing a written notice of appeal with the planning department within 30 days of the date of the decision by the planning department.

Sec. 130-207. Applicability to church.

The regulations, guidelines, requirements, rules, and the provisions pertaining to the design review districts in B-4 districts shall not apply to churches in existence as of the date of adoption of an ordinance applying these regulations to the property where the church is located, nor to any property owned or thereafter acquired by such church which is used for noncommercial church purposes. Those provisions applicable to B-3 districts shall apply to all construction, improvement, and future use of said church property

located in the area designated as B-4 district which is used for noncommercial church purposes.

Section 2. Section 130-244 is amended to read as follows:

Sec. 130-244. B-4 district.

(a) *Purpose.* This district is composed of land and structures situated in a historical or scenic area. An appropriate mix of specialty retail, offices, professional services, institutional and housing uses is provided for in the district. The district serves as one of the historic centers of retail trade, banking, governmental services, cultural facilities and community institutions serving the community. The district further recognizes the growing interest and demand by certain segments of the metropolitan population for in-town housing convenient in proximity to activities. The district regulations are designed to advance the economic development of the district, yet preserve and enhance its historical and architectural integrity in accordance with the improvement plan for the district.

(b) *Permitted uses.* See chart in section 130-312.

(c) *Building site area.* There is no minimum building site area.

(d) *Building site coverage.* No limit.

(e) *Building height limit.* No limit.

(f) *Yards.* Except as provided in article III on supplementary regulations, no yards are required.

Section 3. *Severability.* If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

Section 4. *Ordinances repealed.* All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. Sections 30-61 and 30-62 are repealed.

Section 5. *Redevelopment of potentially blighted areas.* The Council finds that changes and changed conditions in the business area make this amendment to

the zoning ordinance necessary and desirable. The Council finds that this ordinance is authorized as a redevelopment project pursuant to §§24-2-1 through 24-2-10, 1975 Code of Alabama, and as an urban renewal project pursuant to §§24-3-1 through 24-3-9, 1975 Code of Alabama. The Council finds that there is a potential for areas listed as design review districts to become blighted unless improvements are made.

Section 6. *Effective date.* The provisions of this ordinance shall be effective on the first day of the first month following publication in a newspaper of general circulation following adoption by the City Council.

I hereby certify that this ordinance was duly adopted by the City Council of Gadsden, Alabama, at a public meeting held on June 5, 2007.

Iva Nelson, City Clerk

APPROVED on _____, 2007

Sherman Guyton, Mayor