

# **MOBILE TREE COMMISSION**

## **BY-LAWS**

### **ARTICLE I. NAME**

The name of this organization shall be the Mobile Tree Commission, hereinafter referred to as “the Commission” or “this Commission”.

### **ARTICLE II. OBJECTIVES**

The objectives of this Commission are to:

- a) Educate the public as to the economic and aesthetic benefits of trees to the City of Mobile (herein after “City”) and its citizens, both on publicly-owned property and privately-owned property,
- b) Promote the planting, health, and growth of trees in the City, with the particular objective of establishing and protecting avenues of Live Oak trees and other trees deemed suitable by the Commission,
- c) Promote the care, feeding, fertilization and other measures desirable for the health and growth of existing trees in streets rights-of-way in the City, and
- d) Protect trees located in streets rights-of-way in the City from damage, removal, lack of sustenance or any other act or condition which might threaten the health and growth of such trees.

### **ARTICLE III. POWERS AND DUTIES**

This Commission shall have such powers as are designated under Alabama Act Number 929, House Bill 1365, passed in the 1961 regular session of the Alabama Legislature and approved September 9, 1961, and as amended in 1981 and 2015, hereinafter referred to as “the Act”, which authorized its creation.

This Commission may:

- a) adopt by-laws, rules and regulations not in conflict with existing laws;
- b) provide any printed forms necessary to govern its proceedings and carry out its work;
- c) cause such studies to be made as it deems necessary;
- d) perform specific or general services to carry out its purposes;
- e) deny permission to cut, remove, trim, damage or create any conditions injurious to any tree in any street right-of-way of the City in accordance with the standards set by the Commission;
- f) approve any proper application made to it, or part of any such application, upon such terms and conditions as the Commission may fix and in accordance with standards set by the Commission;
- g) hold public hearings on any application made to it;
- h) file a legal complaint against any person who takes an action as described in Article II (d) without

- first making written application and obtaining written permission in advance of such action;
- i) request the cooperation of all departments and agencies of the City;
- j) seek and accept contributions, and expend the same, for the purpose of carrying out its work;
- k) elect its own officers as hereinafter provided by these by-laws.

It shall be the duty of this Commission to:

- a) carry out its objectives as set forth in Article II of these by-laws;
- b) establish a form, or forms of application which may be revised from time to time;
- c) set standards by which any such application shall be considered and to outline such standards in a Standing Rule;
- d) keep a record of all of its proceedings, register all applications made to it and its actions thereon, all of which shall be public record; and furnish any person desiring a copy of any act or proceeding of the Commission such copy for such standard fee(s) as are charged by the City.

#### **ARTICLE IV. APPEAL**

Any person aggrieved by a decision of the Commission may, within 15 days, file an appeal with the City Council. Any person aggrieved by a decision by the City Council of such appeal may, within 15 days, file an appeal with the Circuit Court of Mobile County, a copy of which must also be filed with the City Clerk.

#### **ARTICLE V. MEMBERSHIP**

- a) **NUMBER.** This Commission shall consist of the number of members so designated by the Act.
- b) **APPOINTMENT.** The Tree Commissioners shall be appointed by the City Council, as prescribed in the enabling legislation, as amended.
- c) **TERM.** Commissioners shall serve at the pleasure of the City Council. Each Commissioner shall serve until his or her successor takes office.
- d) **VACANCY.** Any vacancy shall be filled by the City Council, as prescribed in the Act.

#### **ARTICLE VI. OFFICERS**

- a) **TITLE.** Officers of this Commission shall be a Chairman, Vice Chairman, and Secretary/Treasurer.
- b) **ELECTIONS.** Officers shall be elected annually by the Commissioners from among their number.
- c) **VACANCIES.** Vacancy in any office shall be filled by a special election.
- d) **DUTIES.**
  1. **Chairman.** It shall be the duty of the Chairman to serve as the official representative of the Commission; to appoint all standing committees and, with the approval of the Commission, any necessary special committees; and to serve as ex-officio member of all committees. The Chairman will preside over all meetings of the Commission.
  2. **Vice-Chairman.** It shall be the duty of the Vice Chairman to assist the Chairman as requested and, in the absence of the Chairman, perform the duties of that officer.
  3. **Secretary/Treasurer.** It shall be the duty of the Secretary/Treasurer to supervise the maintenance of a record of the Commission's resolutions, transactions, findings,

and determinations; to ensure an accurate record is kept of all funds contributed to, or otherwise received by, the Commission and how such funds were expended; to present a written annual financial report and such written interim reports as requested; to draft any necessary budget; and to disburse funds in accordance with an approved budget or at the discretion of the Commission. All such records shall be public records. All documents requiring Commission approval shall be signed by the Secretary/Treasurer, or in his/her absence, the Chairman. The Secretary/Treasurer may direct the Commission's staff to use a facsimile signature on routine documents. The Secretary/Treasurer shall act in place of and for the Chairman, in the absence of the Chairman and Vice-Chairman.

#### **ARTICLE VII. STANDING COMMITTEES**

- a) **NAME.** The standing committees of this Commission shall be four in number as follows: Education and Tree Care, New Trees, Protection, and Public Relations.
- b) **MEMBERS.** Unless otherwise provided in this Article standing committees may include persons who are not members of this Commission, as deemed necessary or appropriate by the Commission Chairman. With the consent of the Commission any studies necessary to a committee's work may be assigned to a sub-committee. Each sub-committee shall include at least one (1) member of the Commission to serve as its chair and liaison to the Committee and/or Commission.
- c) **PUBLIC RELATIONS.** This committee shall publicize: (a) the work of the Commission including its meetings, its actions, and the work of its various committees; (b) the provisions and penalties of the state law and any penalties levied for violation of that law; (c) any outstanding incidents, including urban and suburban construction, reflecting successful efforts of the Commission and/or other persons to preserve existing trees.
- d) **EDUCATION AND TREE CARE.** This committee shall: (a) gather, compile and distribute information to educate the public as to the economic and aesthetic benefits of trees, both on publicly owned and privately owned property, to the City and its citizens; (b) gather, compile and distribute information to promote the care, feeding, and growth of existing trees on publicly owned and privately owned property in the City; (c) suggest and/or submit articles relating to its work to the Public Relations Committee for publicizing.
- e) **NEW TREES.** This Committee shall promote: (a) the planting of new trees in the City with the particular objective of establishing avenues of Live Oaks and other trees, as defined in the Standing Rules, which the Commission deems suitable; (b) a manner of planting which will contribute to the health and growth of such trees; (c) the proper placement of new trees in regard to intersections and legal curb lines so that they will not create a safety hazard nor require removal for other reasons during growth or in full growth.
- f) **PROTECTION.** This committee shall consist of all members of the Commission. It shall: (a) protect trees located in the street rights-of-way in the City from removal, lack of sustenance, or any other act or condition which might threaten the health and growth of such trees; (b) carry out its work in accordance with the Powers and Duties of the Commission as set forth in these by-

laws; (c) assure that governmental bodies, utilities, construction contractors and/or employers of such contractors, and developers of subdivisions, are aware of the objectives and powers of the Commission, and the penalties for violating the provisions of the Act. This committee may assign to its designated agents, or a sub-committee, the duty of verifying any or all parts of any application made to it. For all trees three (3) inches diameter at breast height (DBH) or less the applicant shall complete a tree removal application, which will be processed administratively by the **designated City department**. If the applicant objects to the administrative decision they may appeal to the Commission for review. For removal of trees greater than 3 inches DBH and for any trimming of 3 inch diameter limbs or larger, application shall be made to the Commission in advance. When any governmental body or utility files an application that it is, or may be reasonably, necessary to trim, cut or remove trees in a designated area to prevent a public hazard or to provide efficient and economical service to the public, then such certificate shall be conclusive evidence for the approval of an application by the Commission. All such applications shall be filed prior to work unless the tree poses an imminent danger. The Commission may grant continuing permission to trim, cut or remove at any time any trees in any area described in an application and covered by a certificate. The Commission shall also be notified within 30 days of any emergency removal, trimming, or cutting of trees within the City right-of-way. **Designated City staff** has the authority to permit work performed outside the critical root zone, but under the drip line of trees that exist on the City right-of-way. **Staff** also has the authority to render decisions on an emergency basis in the critical root zone (the area surrounding the tree equal to the DBH in inches multiplied by 12 and divided in half). However, the committee may not delegate to other such agents or sub-committee its authority to consider and render a decision on any application(s).

#### **ARTICLE VIII. SPECIAL COMMITTEES**

- a) **APPOINTMENT.** The Chairman, with the approval of the Commission, shall create special committees as needed. Such committees may be composed of members of the Commission and/or its non-member agents.
- b) **DUTIES AND TERM.** A special committee shall carry out the duties assigned at its creation, provided it shall not assume any duty of a standing committee unless it is properly designated as a sub-committee. A special committee shall serve until its work is completed, or it is discharged by the Commission.

#### **ARTICLE IX. MEETINGS**

- a) **OPEN MEETINGS.** All Commission meetings are open to the public and news media. Consideration of applications and comments/questions from the public and news media shall only be taken during the public hearing portion of the Commission's agenda and at such other portions as allowed by the Chairman.
- b) **REGULAR MEETINGS.** The Commission shall hold regular meetings each month, date/day, time and location to be announced at the annual organizational meeting, and may be subject to change. However, if there are no pending applications the Commission may, by survey

consensus, cancel a monthly meeting, except if that meeting is the annual organizational meeting and election of officers. The first Regular Meeting of the Commission at the beginning of the City's fiscal year shall constitute the Commission's annual organizational meeting. Notices for all such regular meetings shall be sent to the Mayor, the City Council, the Commission members, all persons with pending applications, news media, and others designated from time to time by the Commission, not later than five (5) business days before each such meeting.

- c) SPECIAL MEETINGS. The Chairman, any two officers, or any three members may call a special meeting of the Commission. Notice of such meeting shall be given directly to each member not less than 48 hours prior to such called meeting. Notice may be in writing, telephonic, in person, or by electronic transmission so long as it is directly to each member.
- d) AGENDA. All reports, recommendations, and other written materials to be considered by the Commission shall be submitted **to designated City staff** in advance, compiled, and sent back out to the Commission and the public no later than five (5) business days before each Regular Meeting. The foregoing shall not preclude the Commission from considering other materials or matters, at the Chairman's discretion. No application shall be considered by the Commission unless received according to the deadline schedule established each fiscal year, as may change from time to time. To be considered, an application must contain all information as noted on the application. From time to time additional information may be requested as needed for a thorough review and informed decision.
- e) ORDER OF BUSINESS. The order of business at any Commission meeting shall be substantially as follows:
  - 1.Roll call and determination of quorum
  - 2.Approval of minutes
  - 3.Treasurer's Report
  - 4.Public Hearings (if any)
  - 5.Other business
  - 6.Administrative matters
  - 7.Adjournment
- f) PUBLIC HEARING. During any public hearing, the presiding officer shall determine the order of the matters to be heard. Only applicants, opponents, and citizens seeking information shall be allowed to speak. Copies of staff reports and recommendations shall be made available to each Commission member and City staff shall respond to questions from the Commission and, when in order, from the public. No member of the public shall be allowed to speak during a Commission meeting, except during a public hearing or upon the affirmative permission by the presiding officer.
- g) MOTIONS. No motion shall be fully debated or put to a vote without a second. A motion may be amended with the agreement of the mover and the second, or by motion to amend with a

second and majority vote by the Commission. Once amended, a motion must be voted upon in its amended form only. No motion or amendment shall be voted upon without a period of discussion, the length of which shall be at the discretion of the presiding officer. Notwithstanding the foregoing, a motion to lay on the table shall be decided immediately without discussion. A motion to act on a matter prior to the close of a public hearing shall be in order but shall require a unanimous vote.

- h) LACK OF MOTION. As to any application pending before the Commission, the failure to receive a motion thereon shall constitute a denial of such application unless action on such application is specifically postponed to a subsequent meeting. The lack of a second to a motion means that motion dies at which time a subsequent motion may be made. If a subsequent motion is not made the application shall be considered denied.
- i) VOTING. There shall be no voting by proxy or by telephonic or electronic means. Voting must be in person at a Regular or Special Meeting. Except as expressly provided otherwise in these rules, the Commission acts by a majority of those members voting at a meeting where a quorum is present. Failure to obtain a majority, or when there is a tie, means the matter under consideration fails. Voting shall be by voice except the presiding officer may require a show of hands. All abstaining or recusing members shall so state.
- j) NOTIFICATION OF ACTION. When the Commission takes any action on an application, the applicant shall be notified in writing by the Planning and Zoning Department.

#### **ARTICLE X. FINANCES**

- a) The fiscal year of this Commission shall be the same as that of the City unless otherwise established annually by the Commission.
- b) This Commission is authorized to accept contributions and expend the same in carrying out its duties and obligations as permitted in the enabling legislation.
- c) The Members of this Commission shall serve without salary or remuneration provided that members may be reimbursed for expenditures which received advance approval of the Commission.
- d) Any necessary budget shall be drafted by the Secretary/Treasurer and shall be based on current and future needs. The budget shall be effective after its adoption by the Commission.

#### **ARTICLE XI. QUORUM**

- a) A majority of commission members shall constitute a quorum for Commission meetings.
- b) A majority shall constitute a quorum for committee meetings.

#### **ARTICLE XII. PARLIAMENTARY AUTHORITY**

- a) Robert's Rule of Order Revised shall govern the proceedings of this Commission in all cases not provided for in the Act, these by-laws or the standing rules.

#### **ARTICLE XIII. AMENDMENTS**

- a) These by-laws may be amended at any regular meeting of the Commission by either a two-thirds vote of the membership provided notice of the amendment has been given at a previous meeting or by unanimous vote of the membership without previous notice. (Comment: The membership is designated in the above rather than “those present and voting” since the Commission is small in number.)
- b) All proposed amendments shall be submitted in writing.