

**RULES AND REGULATIONS GOVERNING PROCEEDINGS
BEFORE THE ARCHITECTURAL REVIEW BOARD**

Adopted August 2, 2023

1. Purpose

The purpose of these rules is to establish uniform procedures for the transaction of business before the Architectural Review Board, hereafter referred to as “the Board”. These rules are intended to establish a framework for decision-making; to foster effective communication between the Board, the City, and the public; and to ensure that all Board decisions are made according to law and in a manner that is orderly, efficient, and fair.

2. Powers

The powers and duties of the Board are contained in Chapter 44 of the Mobile City Code, and Alabama Code section 11-68-1 through 15 (1975). A copy of Chapter 44 is available from the City Clerk or the Historic Preservation Office. It is also available on the web at www.cityofmobile.org.

3. Membership

The Board is comprised of nine (9) members nominated by the Mayor and appointed by the City Council. All Board members are volunteers who have demonstrated experience in architecture, history, urban planning, archaeology or law. Employees in the City’s Historic Development Office (“**Staff**”) are assigned to assist the Board. Among other things, staff members meet with applicants, assist with the preparation of applications, prepare agendas, make recommendations, and prepare minutes and records of the Board’s meetings.

4. Authority

The Board is a quasi-judicial body responsible for approving plans for exterior work in the historic districts including, repairs, alterations, painting, landscaping, fencing, additions to existing buildings and properties, proposals for new construction and demolitions. Plans are reviewed to ensure that the proposed work is compatible with the character of the structure and the historic district as set out in the Design Review Guidelines. The Board has no authority to determine how a property is used. Once an application is approved, a Certificate of Appropriateness is issued and the applicant may receive a building permit. Except for certain signs along Government Street, the Board has no jurisdiction over any property located outside a district.

5. Election of Officers

The Board shall annually elect from its members a Chair and Vice-Chair. No person may serve more than three consecutive terms as Chair. The Chair, or in his or her absence, the Vice-Chair, shall preside over special, regular, and called meetings of the Board. In the absence of the Chair and Vice-Chair, the members present may appoint a temporary Chair. Elections for the Chair and Vice-Chair shall be held at the first regularly scheduled meeting of the Board and annually on the same date thereafter.

6. Meetings

a) *Meetings Public.* All Board meetings are open to the public except on those occasions when the Board may choose to go into executive session to discuss matters protected by attorney-client privilege, or as otherwise allowed by state law.

b) *Quorum.* The quorum for the transaction of any business before the Board shall be not less than five members. In the absence of a quorum, the Chair may adjourn the meeting to a stated time and date to permit the establishment of a quorum.

c) Should any Board member(s) be absent for greater than fifty percent (50%) of the Board's regular annual meetings, the Chairman and/or the Vice Chairman of the ARB shall notify the City Council and such notice shall contain a request for the City Council to remove and replace such Board member(s).

d) *Regular Meetings.* The Board shall hold regular meetings in accordance with its published schedule, unless there is no business scheduled to come before the Board.

e) *Special Meetings.* Subject to the notice requirement of these Rules, the Board may hold such special or other meetings as required by the business of the Board. The Chair or any three Board members may call such special meetings. Each Board member shall be directly notified of the special meeting at least 24 hours in advance of such meeting, unless such notice is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property. Notice may be in writing, by voice or electronic transmission via his or her email address, so long as it is made directly to each member. Evidence of notice shall be recorded in the minutes of the special meeting. Additional notice of the special meeting shall be given to the City Clerk and the City's Communications Office and posted on the City's website.

f) *Rules of Order.* The presiding officer shall preserve strict order and decorum at all meetings, in accordance with these Rules. The presiding officer shall state every question presented to the Board, call for the vote, and announce the vote on all matters. The presiding officer shall vote on all questions, but may not initiate or second motions. A majority vote of the members present may decide any question not addressed in these rules.

g) *Appealing Decisions of the Chair.* All questions which may arise during a hearing that are not otherwise resolved by applicable law or rules shall be decided by the Chair, subject to appeal by any member to be decided forthwith by a vote on the question "shall the ruling be sustained?" A majority vote of the members present may overrule the Chair.

h) Design Review Committee. For any project, whether commercial or residential, the Chair may appoint a Design Review Committee to assist the applicant in complying with the Guidelines. All Committee meetings shall be open to the public and of record. Notice of the meetings of the Design Review Committee shall be provided in accordance with Rule 8(c)2. herein. The meeting record and any recommendations of the Committee shall be transmitted to the Board with the application for a Certificate of Appropriateness.

i) Agenda. All matters to be considered by the Board shall be delivered to the staff in accordance with the published schedule. The staff shall prepare an agenda according to the order of business, and furnish each Board member, the Board's Attorney, the City Clerk, and such other individuals and organizations designated by the Board (the "**distributees**"), with a copy of the agenda seven (7) days prior to the meeting, or as soon thereafter as practicable. Staff may amend the agenda as needed up to 24 hours prior to the meeting. All such amendments shall be posted on the City website and sent to the distributees by the best means available. Failure to provide notice as set out herein will not invalidate any action taken by the Board. The agenda shall also be posted on the City's website.

j) Minutes. The staff shall keep the minutes, or audio or other electronic recordings, of all Board meetings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The staff shall keep records of resolutions and other official actions.

k) Order of Business. The order of business at meetings shall be as follows:

- 1) Call to order
- 2) Roll call and determination of quorum
- 3) Approval of minutes and certified records mid-month
- 4) Review of mid-month approvals
- 5) Public hearing
Old Business/New Business
- 6) Other business announcements

The Order of Business may be altered by the Chair with the consent of the Board.

7. Guidelines

City ordinances require the Board to utilize guidelines that are consistent with the Secretary of the Interior's Standards and that take into account local characteristics and local goals. The Design Review Guidelines for Mobile's Historic Districts currently in effect include:

- Overarching Preservation Principles
- Design Review Guidelines Applicable for all Historic Structures
- Residential Design Guidelines
- Commercial Design Guidelines
- Institutional Design Guidelines
- Accessory Design Guidelines
- Site Considerations
- Commercial Signage
- Demolition and Relocation of Historic Structures

8. Public Hearings

(a) *Purpose.* City ordinances require a public hearing for all applications, except those involving routine work. During the hearing, the Board receives evidence to determine whether the work proposed by an applicant will, as a matter of fact, "materially impair" the architectural value of the building or the special character of the Historic District as measured by the Guidelines. In making its decision, the Board will consider all pertinent factors, including the structure's historical significance, general design arrangement and the relationship to the other structures in the immediate neighborhood. Applications may be approved, approved with conditions, or denied.

(b) *Expedited Review Procedures.* Minor projects may be approved by Staff without notice, hearing and Board approval. Minor projects include performing routine maintenance and alterations, including awnings, in-kind repairs, fencing, painting, driveways and sidewalks, and accessory structures utilizing stock designs previously approved by the Board. The Resolution attached hereto and labeled Exhibit A lists work items that may be approved by the Staff is hereby duly adopted.

(c) *Notice.*

1. Except for applications seeking to be considered for [Expedited Review under paragraph \(b\) above](#), the Board shall not consider any application unless notice has first been given to the public and all interested parties as follows:

- a. Not less than seven days immediately preceding the public hearing, the property shall be posted with a sign indicating that an application has been made to the Board and providing a telephone number for further information.
- b. The Agenda shall be mailed or furnished to the City Clerk, the Board's Attorney, and to any other person upon request.

2. Notice of special meetings and Design Review Committee meetings shall be posted on a bulletin board in Government Plaza and announced on the City website as soon as practicable after the meeting is called and not less than 24 hours before the meeting is scheduled to begin unless such notice is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property.

(d) *Public Participation.* Any person has an opportunity to address an application. All persons appearing before the Board shall state their name, address, relationship to the case, and any association with the applicant, and then shall state facts and arguments relevant to the subject matter of the case. The Board will also accept written comments presented before or at the meeting, up until 5:00 p.m. on the day prior to such meeting as sent to the Board by the United States Mail, email or posted to the website of the City's Historic Development Office.

(e) *Time Limits.* In considering an application for a Certificate of Appropriateness, each side shall have five minutes for the presentation of evidence and argument unless a request for additional time is made at the beginning of the presentation and granted by the Chair. The same extension of time shall be made available to the other side in the same case. In any instance where there are more than four (4) proponents or opponents of a particular issue, each such group shall select among themselves four (4) persons to present evidence and argument for their respective groups. In such instances, no more than four (4) such designated persons shall be allowed to make a presentation. Alternatively, the parties in

interest on the same side of a controversy may designate one of their number to speak for all such parties pooling time up to ten (10) minutes. The applicant shall have an additional three (3) minutes for rebuttal.

- (f) *Order of Argument.* Each case shall proceed as follows:
1. Chair checks and records any conflict of interest among Board members.
 2. Introduction of the application and staff report.
 3. Applicant afforded opportunity to present evidence in support
 4. Others afforded opportunity to present evidence in support
 5. Others afforded opportunity to present evidence in opposition of the application
 6. Other public statements received into record, e.g., statements from City officials, neighborhood groups, etc.
 7. Questions from Board or others
 8. Rebuttal
 9. Summary of Evidence by Chair
 10. Closing of Public Hearing

(g) *Evidence.* The judicial format of the hearing requires Board members to be impartial. The staff report and any committee reports shall be made available to the applicant and the public at the same time it is transmitted to Board members. Such reports shall also be presented during the hearing. Oral testimony and documentary evidence may be allowed even though it does not meet the standards for the rules of evidence as found in the *Alabama Rules of Civil Procedure*. Those rules, however, may be used as guides in considering objections. At the discretion of the Board Chair, irrelevant, immaterial, and repetitious evidence may be excluded.

(h) *Documents, copies.* Documentary evidence may be received as originals or in the form of copies or excerpts provided the original is made available to the Board for comparison upon request, and shall be made a part of the record of the case. Whenever an original is submitted, complete and accurate copies may be furnished to the City's Historic Preservation Office for filing as substitutes for the originals in the record within 15 days following the decision of the Board in any case.

(i) *Official notice.* Official notice of technical, scientific or community facts within the specialized knowledge of the Board or of its staff may be taken.

9. Decisions, Reconsideration

(a) *Discussion.* At the conclusion of the public hearing, the Board will proceed to discuss whether the proposal does or does not constitute a “material impairment” in light of the Guidelines or in the case of a proposal to demolish or relocate a property will not be detrimental to the historic or architectural character of the District. All facts relied upon by the Board in reaching its decision shall be determined by one or more motions as follows: “I move that based upon the evidence presented in the application and during the public hearing that the Board finds the proposed work *[does]* or *[does not]* constitute a material impairment according to the Guidelines, as shown by the following facts:

[movant will then enumerate all facts to support the decision]

(b) *Conditions.* If the Board determines that the work proposed would constitute a material impairment, the Board must then decide if there are any conditions that would bring the proposed work into compliance with the Guidelines.

(c) *Decision on the Request for a Certificate of Appropriateness.* After discussion and finding of facts, the Chair will then call for a motion that the Certificate of Appropriateness be approved, approved with conditions, or denied. In some cases, the Board may decide to defer decision on the application to obtain additional information, to await action by another Board or agency.

(d) *Reconsideration.* Any action of the Board may be reconsidered on a motion made immediately following announcement of the vote on such action, and prior to the commencement of the following case, with the exception of the last case on the agenda, in which such motion shall be made prior to the adjournment of the meeting.

(e) *Abstention.* While it is the duty of every member to vote, no member can be compelled to do so.

(f) *Decision Final.* All Board decisions are final, subject to the appeal procedures set forth below. Applications for a rehearing may be made in the same manner as original applications provided that the same shall not be set for hearing sooner than three (3) months from the date of the original hearing.

10. Appeals of Decisions

(a) Any person aggrieved by a final decision of the Board may appeal within fifteen (15) days of the decision by filing a Notice of Appeal in the office of the Clerk of the Circuit Court of Mobile County, Alabama.

(b) Pursuant to Section 44-52, upon receiving a Notice of Appeal, the Board will transmit to the Clerk of the Circuit Court of Mobile County, Alabama a certified record of proceedings involved in such case. The certified record (“**Record**”) shall consist of an audio or other electronic memorialization of the Record regarding such matter. Should the Appellant desire a written transcript of the Record, a duplicate of the Record shall be provided to a duly licensed and certified Court Reporter who shall transcribe the Record at the sole expense of the party filing the Appeal.

11. Conflicts of Interest

(a) *Board Members.* No Board member shall take part in any hearing, consideration or determination of any case in which he or she, or his or her spouse or person related to either of them has a financial or personal interest in the property or action concerned, or will be directly affected by the decision, or has or believes he or she has any other conflict of interest as defined by applicable law.

(b) *Staff.* No member of the staff of the Board or of any agency serving the Board shall prepare or present arguments or reports, or attempt to influence decisions of the Board in any case in which the staff member has a similar interest.

(c) *Disqualification.* As soon as any Board or staff member or members of any agency serving the Board becomes aware of any potential conflict of interest in any case scheduled to come before the Board, he or she shall notify the Chair or acting Chair of the particulars. Where the Chair finds that the conflict clearly exists, he or she shall request the disqualified member to leave the area during any discussion of the matter that creates the conflict and cause the record to reflect the circumstances of the exclusion, and to make arrangements for alternative services as are required. The Chair may also elect to forward questions of potential conflict of interest to the Alabama Ethics Commission.

(d) *Discussion of pending matters.* No Board member shall in any manner discuss any application with any person prior to the Board's deliberation on such application, or appear for or represent or advise any party with respect to any case pending before the Board. Board members shall not express individual opinions on the proper judgment of any application with any persons prior to the determination of that application, except in accordance with these rules.

(e) *Contracts with applicants.* All Board members shall notify the Board regarding negotiation of employment or contracts with persons or applicants who have matters pending before the Board.

12. General Provisions

(a) *Adoption of Rules & Amendments.* The Rules of Procedure and any amendments to the Rules shall be adopted by a vote of the majority of the quorum of the Board at either regularly scheduled meetings of the Board or at a special meeting called for adoption of new rules or amended rules, provided that notice is properly given.

(b) *Filing and Amendments.* A copy of these Rules, and a copy of each amendment to these Rules, shall be certified by the Board and filed with the City Clerk.

(c) *Copies.* A copy of these Rules and of the ordinance creating the Board and any amendments thereto shall be available upon request to the public, and posted on the City's website.

arb rules regulations(8905663.3).docx