



THE CITY OF MOBILE, ALABAMA

RULES OF THE BOARD OF ZONING ADJUSTMENT

SECTION I – GENERAL GOVERNING RULE

The Board of Adjustment, hereinafter referred to as the Board, shall be governed by the provisions of Title 11, Chapter 52, Article 4, Section 80, of the Code of Alabama, 1975, and the Zoning Ordinance of the City of Mobile adopted and effective the 16th day of May 1967, and such amendment thereto as may be adopted from time to time.

SECTION II – OFFICERS AND DUTIES

1. CHAIRMAN: A Chairman and Vice-Chairman shall be elected annually by a majority vote of the Board and shall serve for the calendar year unless otherwise determined. The Chairman, or in his absence, the Vice-Chairman, shall preside at all meetings of the Board, and subject to these rules, shall decide all points of procedure.
2. SECRETARY: The Secretary shall be designated by the Board and may or may not be a member thereof. The Secretary, subject to the direction of the Board and the Chairman, shall keep all minutes, proceedings and records, shall conduct all correspondence and shall send out and publish all notices required. Requisitions against appropriation items shall be signed by the Secretary, or in his absence, by the Chairman.

SECTION III – MEETINGS

1. TIME OF MEETINGS: Regular meetings of the Board shall be held at least once each month in the Council Chamber of City Hall at the call of the Chairman. The first meeting in January of each year shall constitute the Annual Meeting of the Board. Special meetings shall be called upon written request of two (2) members of the Board, which shall be delivered to the Chairman, or in his absence to the Vice-Chairman, and a copy of such request shall be delivered to the Secretary.
2. NOTICE TO BOARD MEMBERS: Notice of the time set for each meeting shall be given each member not less than 48 hours in advance. With the consent of at least five (5) members, a meeting may be held on less than 48 hours notice.
3. CONDUCT OF MEETINGS: All meetings of the Board shall be open to the public.
 - A. Quorum: A quorum shall consist of five (5) members of the Board.

- B. Oaths: The Chairman, or in his absence the Vice-Chairman, may administer oaths and compel the attendance of witnesses.
- C. Order of Business: The order of business at meetings shall be substantially as follows:
 - (a) Roll call
 - (b) Reading of Minutes of preceding meeting
 - (c) Hearing of cases (See Section V, Paragraph 2)
 - (d) Report of committees
 - (e) Unfinished business
 - (f) New business
- D. Minutes: The Secretary shall keep the minutes of the Board showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of examinations and other official actions.
- E. Agenda: All applications shall be carried on the agenda of the Board at each succeeding meeting until disposed of by final action of the Board.

SECTION IV – APPEALS AND APPLICATIONS

- 1. GROUND FOR HEARING BEFORE THE BOARD: The Board shall act on the following questions and such other questions as provided by law:
 - A. Administrative Review
 - B. Interpretation of the Zoning Ordinance
 - C. Special Exceptions to the Zoning Ordinance specifically provided in such ordinance
 - D. Variances
- 2. PERSONS WHO MAY APPEAL OR MAKE APPLICATION:
 - A. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Mobile affected by any decision of an Administrative Officer.
 - B. For the purposes of clarification, applications for Special Exception or Variance must be taken out in the name of the person(s) or company to use the property. If the user is not the property owner(s), then the application must be accompanied by a letter from the owner(s) granting permission for the application.

3. MANNER OF FILING APPEALS OR MAKING APPLICATIONS:

- A. Time and Manner of Making Appeal: An appeal must be made within thirty (30) days from the date of the decision of the Administrative Officer. The appellant shall file written notice of appeal with the Secretary of the Board and a copy thereof with the office from whose decision or ruling the appeal is taken.
- B. Manner of Making Application for Special Exception or Variance: An application for a Special Exception or for a Variance may be made at any time. The applicant shall file written application with the Secretary and a copy thereof with the Municipal Building Inspector.
- C. Appeals from the Decision of the Board: Any party aggrieved by any final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the Circuit Court by filing with the Board appropriate written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal the Board shall certify a transcript of the proceedings of the Board to the Circuit Court.

Whenever a party aggrieved appeals from an order of the Board to the Circuit Court, as provided in Title 11, Chapter 52, Article 4, Section 81, of the Code of Alabama, 1975, the respondent party may, but without expense to the Board of the City of Mobile, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trail de novo.

4. FORM OF APPEAL OF APPLICATION: All notices of appeal and all applications for special exceptions or variances shall be made on forms furnished for that purpose, and the original shall be signed by the appellant or applicant.
5. SUBMISSION OF PLANS: Each application shall be accompanied by a plot plan. When the request is for a variance the plot plan shall include a certified survey illustrating the property boundaries and any improvements thereon.

SECTION V – HEARINGS

1. NOTICE OF HEARINGS: The Board shall give public notice of hearing upon each appeal or application by publication in a newspaper of general circulation within the City of Mobile; such notice shall be given at least once each week for two consecutive weeks in advance of the time set for the hearing. The cost of advertising shall be paid by the appellant or applicant. Such notice shall state the location of the property and the general nature of the question involved. The foregoing shall constitute legal notice in all respects as provided by law. Provision of further notice by the Board shall be informative but not jurisdictional.

For purposes of providing further information concerning such applications, the Board shall also cause the following notices to be given:

A. Direct Mail: Written notices shall be mailed to the applicant and to the owners of the abutting property and that directly across the street from the applicant's site. The names and addresses of these property owners shall be furnished by the applicant and shall be those contained in the records of the Tax Assessor's Office of Mobile County. Written notice shall be given at least five (5) days in advance of the hearing and shall contain the time and place of the hearing. The deposit of such notice in the U. S. Mail shall constitute compliance with this requirement.

2. CONDUCT OF HEARING:

A. Appearances: Any person may appear in person or by agent or attorney at the hearing. For cases concerning property use, the user(s) of the property shall be present at the hearing.

- (a) Number of Speakers: the number of speakers for each application shall be limited to four proponents and four opponents.
- (b) Time Limits: Each speaker shall be limited to a maximum of five (5) minutes.

B. Order of Business: At the hearing the order of business shall be substantially as follows:

- (a) Statement of the Case by the Chairman.
- (b) Verification that all legal requirements have been complied with.
- (c) Hearing of evidence and examination of witnesses.

3. RE-HEARINGS: Applications for re-hearings or new applications may be made in the same manner as original applications provided that the same shall not be considered for hearing sooner than six months from the date of the original hearing.

A. Withdrawals: An application that is withdrawn shall be treated in the same manner as a denial.

SECTION VI – DETERMINATIONS

1. FORM OF DECISION: The final decision of the Board upon any appeal or application shall be made by a written order, duly entered and signed by the Chairman, or in his absence by the Vice-Chairman. Such order shall show the reasons for the determination and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made. The decision of the Board may state in detail any exceptional difficulty or unusual hardship upon which the determination is based.

2. NOTICE OF DECISION: the Secretary shall notify interested parties, including the Administrative Office and the Municipal Building Inspector, of the decision of the Board and shall transmit to the appellant or applicant a copy of the written order of the Board.
3. CONDITIONS IMPOSED BY BOARD DETERMINATION: Whenever the Board imposes conditions with respect to the granting of a Special Exception or Variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permit(s) shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.
4. TIME LIMIT ON OBTAINING PERMIT: Unless otherwise specifically state by the Board, a Special Exception or Variance authorized by the Board shall expire, if the applicant fails to obtain appropriate permit(s) pursuant thereto, within six (6) months (in cases where building permits are required, construction must begin) from the date of authorization of the Special Exception or Variance. The applicant shall be notified of the limitation.
5. RESTRAINING ORDER: An appeal to the Board stays all proceedings in the furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to live and property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of Record on application, on notice to the office from whom the appeal is taken, and on due cause shown.
6. DECISIONS TO BE MADE IN PUBLIC: All determinations and decisions of the Board shall be made at a Regular or Special Meeting called in accordance with SECTION III – MEETINGS. All such determinations and decisions shall be recorded in the official minutes of such meeting.

SECTION VII – GENERAL RULES

1. GENERAL AUTHORITY: The Board shall have and exercise all rights, authority, and powers presently or hereafter provided by law, and adoption of Rules by the Board shall not constitute or be construed as a limitation or restriction in any manner whatsoever.
2. AMENDMENT OR REVOCATION: The Rules of the Board may be amend or revoked at any meeting. Prior notice of intention to amend or revoke the Rules must be given by the Chairman to all members prior to the meeting. These Rules shall be filed in the Office of the Board and shall be a public record and shall be available for examination as provided by law.
3. VOTING: The concurring vote of five (5) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any Administrative official, or to decide in favor of the applicant for any Special Exception or Variance. A

member who was not present at the hearing of a case shall not vote on such case, and an absent member shall not record his vote upon any case. Questions other than cases of appeal or application shall be decided by a majority vote, provided a quorum is present and qualified to vote.

4. **RECORDS AND DECISIONS PUBLIC:** Every decision and all minutes, proceedings, and order of the Board shall be filed in the Office of the Board and shall be public records.

SECTION VIII – ETHICS

A member of the Board shall identify any financial interest he/she may have in regards to property coming before the Board for approval of any kind. In the event there is a proprietary interest, whether direct ownership, mortgage, second mortgage, or lease, it should be called to the attention of the members of the Board. Any member of the Board having such interest should recuses themselves from consideration of the subject.

Adopted: December 19, 1961

Amended: September 8, 1964
December 4, 1995
February 3, 2014