

# **Bylaws of the City of Montgomery, Alabama Board of Adjustment**

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# **BYLAWS OF THE BOARD OF ADJUSTMENT OF THE CITY OF MONTGOMERY, ALABAMA**

## **SECTION 1: Objectives**

The objectives and purpose of the Board of Adjustment of the City of Montgomery, Montgomery County, Alabama, are those set forth in Sec. 11-52-1 thru 11-52-84, Alabama Code 1975 and Act. 350, Regular Session, 1971; and those powers and duties delegated to the Planning Board by the Montgomery City Council by Act. No. 618, Regular Session, 1973, and Ordinance No. 28-93, 1993, in accordance with the above mentioned enabling law and legislation.

## **SECTION 2: Officers**

- A. Selection and Tenure** – At the first regular meeting each year, the Board of Adjustment, hereinafter referred to as “Board” shall elect from its membership a chairman, vice chairman and executive secretary, which are declared elected by the majority vote, five (5), of the membership, nine (9). All officers shall serve a term of one year, or until their successors are selected and assume office. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. Vacancies** – Vacancies in offices shall be filled immediately by regular election procedure Section 2-A.
- C. Chairman** – The chairman shall preside at all meetings and shall have the privilege of discussing all matters before the Board and to vote thereon. The Chairman may succeed himself.
- D. Vice Chairman** – The vice chairman shall act in the capacity of the chairman in his/her absence and shall have the same powers and privileges.
- E. Executive Secretary** – The executive secretary shall keep the minutes and records of the Board, shall prepare the agenda of regular, special and sub-committee meetings, shall provide notice of meetings to Board members, shall arrange proper legal notice of hearings, and shall attend to correspondence of the Board and such other duties as are normally carried out by an executive secretary. The Executive Secretary shall be appointed by the Board and shall serve at the discretion of the Board, shall be an administrative official of the Planning Controls Division, and shall be bonded as required by Sec. 11-52-3 thru 11-52-6, Alabama Code 1975, and Act. No. 350, Section 5, 1971 Regular Session.

### **SECTION 3: Meetings**

- A. Regular Meetings** – Regular meetings will be held on the third Thursday of each month at 5:00 p.m. The meetings will take place in City Hall located at 103 N. Perry St., Room 142 (Council Chamber). When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, an alternate meeting date will be chosen in the same month as the originally scheduled meeting, if possible. Notice of regular Board meetings shall be posted on the bulletin board at City Hall at least seven (7) days prior to the meeting.
- B. Special Meetings** – Special meetings may be called by the chairman or executive secretary, or upon written request, to the executive secretary, by at least two members of the Board. The business the Board may perform shall be conducted at a public meeting and notification shall be given in compliance with the Act No. 2005-40 (New Open Meeting Law Act).
- C. Quorum** – Five (5) members of the nine (9) member Board shall constitute a quorum for the transaction of business and the taking of official action. Whenever a quorum is not present at a regular or special meeting, no action taken at such meeting shall be final unless and until ratified and confirmed at a subsequent meeting at which a quorum is present.
- D. Public Records** – All meetings, minutes, records, documents, correspondence and other materials of the Board shall be open to public inspection.
- E. Voting** – An affirmative vote of the majority, five (5), of the Board membership, nine (9), is required to take any action on requests before the Board. In the absence of any provision that rules to the contrary, the rules of procedure provided by Roberts Rules of Order shall prevail.

### **SECTION 4: Agenda**

- A. Items for Consideration** – Appeals to the Board may be made by any person affected by any decision of the Chief Building Official; by applicants for a special exception, variance, or administrative review which shall be determined by the Board to be within the scope of the Zoning Ordinance as it ought to be. The applicant shall prepare his application on a form furnished by the Planning Controls Division addressed to the Board of Adjustment, Planning Controls Division, P.O. Box 1111, Montgomery, Alabama 36101-1111. This form shall specify the grounds upon which the appeal is based and shall contain all pertinent data and information relative to the appeal. All appeals involving yard, parking, or lot line variances shall be required by the Board of Adjustment to have attached thereto a legible site plan with accurate measurements indicating requested variation from the Ordinance. All applications or appeals shall be filed in accordance with approved procedure, not later than 27 days before the regular meeting of the Board of Adjustment at which time said application or appeal is to be considered.
- B. Review and Comment** – The Board staff shall distribute copies of plans and supporting data submitted for consideration by the Board, as necessary to the following agencies for review and comment: City Engineering Department, Traffic Engineering Department, Water Works and Sanitary Sewer Board, and Fire Department.

- C. Prepare and Distribute** – At least seven (7) days prior to a regularly scheduled meeting, the Executive Secretary shall prepare an agenda of items to be brought before the Board, and distribute a complete copy of the agenda to each member of the Board.
- D. Notification** – A schedule of the regularly scheduled meetings for the year shall be posted on a public bulletin board in City Hall. A short form agenda of items to be considered shall be published in a newspaper of general circulation at least seven (7) days prior to a regularly scheduled meeting. All notifications shall include the type of meeting to be held, date, time and location of said meeting.
- E. Signs** – The Planning Controls Division shall post signs on the property for which the appeal is requested. These signs shall be posted on the property in the following manner: (a) on platted and unplatted tracts with widths greater than 150 feet, signs will be posted at 150 foot intervals along the street, or one per each individual platted lot having less than 150 feet widths; (b) with a minimum of one sign for each side of the property with street frontage; (c) at those points determined by the Planning Controls Division to be necessary, if not required in (a) or (b); and (d) such signs shall be posted at least six (6) days prior to the date of the hearing at which the property in question is to be acted upon.

## **SECTION 5: Direct Meeting Notification**

- A. Policy** – It shall be the policy of the Board to transmit all direct meeting notification by electronic mail via the internet. This method of public notification shall not incur any additional cost to the City or the registered person receiving the notification.
- B. Public Registry** – A public notification registry shall be compiled by the Board staff. Persons wishing to sign up for direct public notification of meetings shall register with the Board staff for direct public notification. Following application, the applicant's name shall be added to the registry of those who shall receive direct notice of all future meetings, provided that notice may not be given for meetings held within one (1) week of the receipt of the applications so that the staff may have time to update the list.
- C. Removal of Name** – A person's name may be removed from the registry if the City has information that indicated the e-mail address is no longer valid or that the applicant is not checking their messages. If the direct notification e-mail is returned more than three (3) times, at that time the applicant's name shall be removed from the direct notification list. Misuse of the e-mail notification in any manner will also result in removal from the list and may constitute grounds to prevent future applicant to receive direct meeting notice by the offending individual.
- D. Notice Failure and Alternative Methods of Notification** – The City of Montgomery is not responsible in the event of any notice failure that is not due to fault of its own. The City reserves the right to use alternative methods of notification such as fax, telephone and/or mail if, for technical reasons, electronic means are unavailable at the time the notification is needed. Persons wishing to receive public via U.S. Postal Services shall pay in advance the cost of printing and postage of the public notification. Said cost of printing and postage will be determined at the time the notification is compiled.

## **SECTION 6: Committees**

- A. Establish & Designate** – The Board may establish such committees as it deems advisable and assign each committee specific duties or functions. The Chairman shall designate the members of each committee and shall name the chairman of each committee. The Chairman shall fill vacancies on committees as they are created.
- B. Actions** – No action of a committee of the Board shall be deemed official until approved by a majority vote, five (5), of the membership, nine (9), of the Board at a regular or special called meeting of the Board.

## **SECTION 7: Hearings**

- A. Additional Hearings** – In addition to those required by law, the Board, at its discretion, may hold public hearings when it decides that such hearings will be in the public interest, and the public shall receive proper legal notice as to time and location of public hearings as required by law.
- B. Representation** – At the time of the hearing, the applicant may appear in his own behalf or be represented by counsel or agent. The applicant shall make his statement, followed by that of anyone for or against the proposal. The applicant shall be given an opportunity for a final rebuttal. The Chairman shall set a time limit during discussions on petitions, applications, complaints, appeals, communications, etc., and opponents or proponents shall be limited to ten 10 minutes per side. The time limit may be extended by a majority of those voting.
- C. Disqualify** – Members with a personal or financial interest in any request are required to recuse themselves from voting. It shall be the duty of any party involved in a matter before the Board to inform the Chairman if said party had knowledge of any reason why any member of the Board should disqualify himself from voting on the matter before the Board. In the event a member fails to disqualify himself from voting on any application or petition when such disqualification is required, the Chairman shall have the power to disqualify the member from voting on the application or petition in question. If a vote on the matter has been taken prior to such disqualification, the Chairman shall declare the vote of the disqualified member to be null and void, and the disposition of the appeal or application shall be as if the disqualified member had not voted. In the event such disqualification results in the lack of a quorum, no action shall be taken on the matter. Willful violation of the terms of this section shall be grounds for removal from office in accordance with Section 11-52-3 of the Code of Alabama, 1975, and amendments and supplements thereto.
- D. Rehearings** - Applications for variances or special exceptions shall not be accepted for consideration by the Board on any location on which a public hearing has been held within a period of less than one year, unless warranted by significant changes in the conditions surrounding the location in question, or by a significant change in the application, or by a majority vote, five (5), of the membership, nine (9), of the Board at the time the application for rehearing is reconsidered.

**E. Appeals** – Any interested party who is aggrieved by any action or decision of the said Board may take an appeal therefrom to the Circuit Court within 15 days. Such appeal shall be in writing specifying the judgment or decision from which the appeal is taken.

**SECTION 8: Amendments**

These bylaws may be amended by the majority vote, five (5), of the Board of Adjustment membership, nine (9).

**SECTION 9: Adoption of Bylaws**

These bylaws shall become effective upon passage, approval and publication, or as otherwise provided by law.

*Adopted on this the 16<sup>th</sup> day of February, 2006.*

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Thomas M. Tyson, Jr., *Executive Secretary*  
Board of Adjustment, City of Montgomery

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John Stanley, *Chairman*  
Board of Adjustment, City of Montgomery

Sworn and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_, 2006.

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Helen H. Millican, Notary Public