

**BYLAWS OF THE BOARD OF ADJUSTMENT
CITY OF DOTHAN, ALABAMA**



Adopted/Amended

August 23, 1966/November 8, 2006/September 2, 2009/Jan. 4, 2012

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SECTION I: PREAMBLE

The following constitutes the by-laws, procedures and objectives that will serve to establish, organize and guide the proper functioning of the City of Dothan's Board of Zoning Adjustment.

SECTION II - GENERAL GOVERNING RULE

The Board of Adjustment of the City of Dothan, Alabama, hereinafter referred to as the "Board," shall be governed by the provisions of Title 11, Chapter 52, Article 4, Section 11-52-80, of the Code of Alabama, 1975, and by the provisions of Act 97-673 and in the Zoning Ordinance of the City of Dothan originally adopted the 7th day of May 1946 and readopted the 23rd day of August, 1966, and effective the first day of September, 1966, and as amended from time to time. The Board shall have and exercise all rights, authority and powers presently and hereafter provided by law, and adoption of Bylaws by the Board shall not constitute or be construed as a limitation or restriction in any manner whatsoever.

SECTION III - OFFICERS AND DUTIES

- A) Chairman and Vice 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.
- B) 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, send out and publish all notices required and shall keep records of examinations and other official actions.
- C) Inspections:** Whenever an appeal, application for special exception or application is received by the Secretary, any member of the Board and/or the Planning Director is authorized to inspect the premises involved. (August 9, 1978)
- D) The Administrative Officer shall be the Planning Director or his designated representative and shall be responsible for determining whether an application is complete and ready for the Board's review.**

SECTION IV - PROFESSIONAL CONDUCT POLICY

Pursuant to Resolution 2009-185 enacted by the City of Dothan Board of Commissioners on Tuesday, June 16, 2009, adopting a Code of Conduct for members of City boards and committees, the City Manager has directed that the following Code of Conduct shall be included in the Bylaws of this Board.

A) Purpose:

The purpose of this policy is to promote a professional, ethical environment where all volunteers, board members, appointees, etc can maximize their performance in service to the citizens of Dothan by eliminating offensive or threatening conduct that might interfere with maximum productivity. The types of behavior that are specifically targeted include but are not limited to: (1) sexual harassment; (2) racially derogatory language, religious and other forms of harassment; (3) violence or threats of violence, and (4) unethical behavior. These types of behavior can distract from the effective operation of City business and related duties, and it is the policy of the City of Dothan to prohibit and eliminate these types of behaviors where they occur. Violation of this policy and any retaliation will result in the immediate and automatic removal from office, volunteer positions, appointments, and/or special assignments delegated to the individual.

B) Definitions:

1) Sexual Harassment: Sexual Harassment can include but is not limited to:

- (a) Physical assaults or physical conduct that is sexual in nature (touching, pinching, or brushing against another's body).
- (b) Unwelcome sexual advances, propositions, comments, "kidding," "teasing," or requests for sexual favors.
- (c) Sexual displays or publications such as calendars, cartoons, graffiti, or computer pornography.
- (d) Other verbal or physical conduct of a sexual nature that would interfere with the conduct and productivity of other volunteer or board appointees and City employees or create an intimidating, hostile or offensive work environment.
- (e) Retaliation for complaints of harassment.

2) Racial, Religious, National Origin, Disability, or Age Harassment: These types of harassment can include but is not limited to:

- (a) Any conduct based on race, religion, national origin, disability, or age that interferes with the ability of a citizen, board member, volunteer or city employee to perform their duties.

- (b) Jokes which refer to race, religion, national origin, disability, or which portray these characteristics in a negative light.
- (c) The posting or distribution of cartoons, drawings, or any other material which adversely reflects on a person's race, religion, national origin, disability, or age.
- (d) The use of "slurs" or other offensive language.
- (e) Practical jokes, horseplay, or teasing which tend to make fun of a person's race, religion, national origin, disability, or which reflect negatively on a person's age.
- (f) Retaliation for complaints of harassment.

3) Violence and Threats of Violence. This type of anti-social behavior can include but is not limited to:

- (a) Any conduct which involves the offensive touching of another volunteer, board member, or citizen.
- (b) Intimidating or threatening gestures or body posture that reflects possible violence or a threat of violence.
- (c) Verbal threats to "get even," "go postal," or similar statements that cause a citizen, board member, volunteer or employee to fear possible harm.

4) Ethical Behavior/Expectations

- (a) Volunteers, board members, and appointees shall avoid any interest, activity or contact which is in conflict with the conduct of official duties and should avoid the appearance of conflict of interest, seeking or accepting no favor, benefit, personal profit, individually or for family members or friends, secured by privileged information or by misuse of position, public time or public resources.
- (b) Volunteers, board members, and appointees shall not directly or indirectly solicit any payments or accept or receive any payments or gifts of material value - whether it be in the form of money, services, loans, travel, entertainment, hospitality, or favors - that may be intended, perceived, inferred, expected or construed to influence them in the performance of their official duties or regard any official action on their part.
- (c) Volunteers, board members, and appointees shall identify any financial interest in regard to items before the Board/Committee for approval of any kind. In the event that there is a proprietary interest, (e.g. direct ownership, mortgage, lease, etc.) it should be called to the attention of the members of the Board/Committee. Any member of the Board/Committee having such interest should recuse oneself and not participate in any manner of the discussion or decision making surrounding such matter.

Section V - Appeals and Applications

- A) Grounds for Hearing before the Board:** The Board shall act on the following and such other questions as provided by law and as stipulated in Section 114-178 of the City of Dothan Zoning Ordinance:
1. Interpretation of zoning ordinances
 2. Special exceptions to the zoning ordinances specifically provided in such ordinance.
 3. Variances to the ordinance
- B) Persons who may Appeal or make Applications:**
1. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Dothan affected by any decision of the administrative officer.
 2. Applications for special exception or for variance may be made by any person in interest.
- C) Manner of Making Application:**
1. Notice and Manner of Making Application: An application for a special exception or variance shall be made 14 days prior to the hearing date upon submittal of a written application to the Secretary of the Board on a form provided for that purpose. The original notice of appeal shall be signed by the appellant or applicant. The Secretary shall file a copy thereof with the Planning Director of the City of Dothan.
 2. Payment of Fee Required: An application fee shall be paid by the applicant or appellant under 3A and 3B, above, to the office of the Department of Planning and Development. The cost of advertising and other expenses instant to such appeal application shall be included. Receipt for such payment shall be filed with the Secretary of the Board as a prerequisite to filing such appeal or application and/or hearing the application by the Board.
 3. Submission of Plans Required: Each application for a variance, manufactured home or portable office building shall be accompanied by a plot plan.
- D) Manner of Filing an Appeal:**
1. Appeals from a Decision of the Administrative Official: An appeal must be made within thirty (30) days from the date of the decision of the administrative officer. An appellant shall file written notice of appeal with the Secretary of the Board at least 14 days prior to the meeting of the Board at which such appeal will be considered. The Secretary shall file a copy thereof with the officer from whose decision or ruling the appeal is taken.
 2. Appeals from a 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 of Houston County, Alabama, 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 Secretary of the Board shall certify a transcript of the proceedings of the Board to the Circuit Court.

- (a) Whenever a party aggrieved appeals from an order of the Board to the Circuit Court, as provided in Title 11, Chapter 52, Section 81, of the Code of Alabama, 1975, or as hereafter amended, the respondent party may, but without expense to the Board or the City of Dothan, 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 trial de novo.

Section VI - Meetings

A) Conduct of Meetings

- 1) Quorum: A quorum shall consist of five (5) members of the Board.
- 2) Oaths: The Chairman or, in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses.
- 3) Order of Business: The order of business at meetings shall be substantially as follows:
 - (a) Roll Call
 - (b) Approval of Minutes of preceding meeting
 - (c) Administration of Oath
 - (d) Old Business
 - (e) New Business
 - (i) Consent Agenda
 - (ii) Regular Agenda
 - (f) Discussion Items

B) Regular Meetings

- 1) Public Hearings. Public Hearings will be held on the first Wednesday of each month at 9:00 a.m. All public hearings meetings are held in the City Commission Chambers located on the second floor of the Roy L. Driggers Municipal Building in downtown Dothan. The first meeting in January of each year shall constitute the Annual Meeting of the Board.
- 2) Administrative meetings. Administrative meetings will be held on the Tuesday preceding the regular meeting at 2:00 P.M. The location will be published on the monthly agenda. The meeting is open to the public but no testimony shall be received or solicited.
- 3) When a regular meeting falls on a legal holiday, or upon a day resulting in conflict, an alternate meeting date shall be chosen and made publicly known.

- 4) Notice of regular meetings shall be accomplished as provided for in the Alabama Open Meetings Act as hereafter amended and as specified in the City of Zoning Ordinance.

C) Special Meetings

Special meetings shall be called by the Chairman or Secretary or upon written request of three (3) 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. Special meetings shall be open to the public. Notice of special meetings shall be accomplished as provided for in the Alabama Open Meetings Act as hereafter amended.

D) Notice of Meetings: For purposes of providing information concerning such applications, the Board shall also cause the following notice to be given:

- 1) Advertisement: 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 Dothan; such notice shall be given seven (7) days in advance of the time set for the hearing. Such notice shall state the location and address 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.
- 2) Direct Mail: Written notices shall be mailed by the Secretary of the Board to the applicant and to the owners of abutting property and that directly across the street from the applicant's site by First Class United States Mail. The names and addresses of these property owners shall be furnished by the applicant with his application or notice of appeal to the Board and shall be those contained in the records of the Tax Assessor's Office of Houston County. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the time and place of the hearing.

E) Conduct of Hearing:

- 1) Appearances: All applicants must appear in person or by agent or attorney at the hearing.
- 2) 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.

F) Rehearing's: Applications for rehearing of a denied application or new application concerning the same request may be made in the same manner as

original applications provided that the same shall not be set for hearing sooner than six months from the date of the original hearing.

G) Rules of Procedure

- 1) All meetings shall be conducted in accordance with the Code of Alabama and the Code of Ordinances of the City of Dothan.
- 2) Except where otherwise indicated, all meetings shall be conducted in accordance with the latest edition of *Robert's Rules of Order*.
- 3) A motion to continue or table may be discussed by the members and the public at the discretion of the Chairman.

H) Meeting Decorum

Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. All remarks shall be addressed to the Board as a body and not to any member thereof or members of the audience. Interested parties or their representatives may address the Board by written communications, a copy of which shall be provided to the secretary either before or during the meeting. Persons not observing these guidelines may be asked to leave by the chairman.

I) Voting

- 1) **Approvals.** The concurring vote of five (5) members of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative official, or to decide in favor of the applicant on a matter upon which the Board is required to pass under any ordinance or to effect any variation in the ordinance. (Alabama Act No. 97-673) 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.
- 2) **Denials.** Unless a motion to continue or table is passed, the failure to obtain five (5) votes shall be considered a denial or disapproval.
- 3) **Continued Items.**
Items scheduled for Board consideration may be continued to a date certain as announced at the initial hearing. Items may be continued only once and shall not be required to re-advertise. Applicants shall be required to post the property as otherwise required. No other fees shall be collected.
- 4) **Tabled Items.**
 - (a) Any item may be tabled by a majority of five (5) members present and sitting.
 - (b) To be removed from the tabled, an item shall require approval of five (5) members present and sitting.

(c) If an item has been removed from the table, public notice to adjacent property owners is required as outlined in Section V (D), Notice of Meetings.

(d) Items tabled for longer than six months shall be considered denied.

5) **Withdrawing Items.**

Any applicant may withdraw his request at any time prior to a motion being made to consider its approval or denial.

SECTION VIII - DETERMINATIONS

- A) **Form of Decision:** The final decision of the Board upon any appeal or applications shall be made by a written order, duly entered and signed by the Chairman, Vice-Chairman or his designee. 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.
- B) **Notice of Decision:** The Secretary shall notify interested parties, including the administrative officer, of the decision of the Board and shall transmit same to the appellant or applicant a copy of the written order of the Board.
- C) **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 issued, pursuant thereto by the administrative officer. Such permit 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.
- D) **Time Limit on Obtaining Permit:** Unless otherwise specifically stated by the Board, a special exception or variance authorized by the Board shall expire if the applicant fails to obtain a building permit pursuant thereto within six months from the date of authorization of the special exception or variance. The applicant shall be notified of this limitation.
- E) **Restraining Orders:** An appeal to the Board stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court or record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

SECTION IX - GENERAL RULES

- A)** Amendment or Revocation: These Bylaws may be amended or revoked at any meeting. Prior notice of intention to amend or revoke the Bylaws must be given by the Chairman to all members prior to the meeting. These Bylaws 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.
- B)** Records and Decisions Public: Every decision and all minutes, proceedings and orders of the Board shall be filed in the Office of the Board and shall be public records.
- C)** Any provision of these Bylaws, except for those regulated by either state law or city policy, may be waived or suspended by the affirmative vote of five members of the Board of Zoning Adjustment (added 1/4/12).

I, Wendy Shiver, as Secretary to the Board of Zoning Adjustment, Dothan, Alabama, do hereby certify that these Bylaws are true and correct on this the 4th day of January, 2012.



Wendy Shiver, Secretary