

## **ARTICLE II. TECHNICAL CODES BOARD OF ADJUSTMENT AND APPEALS<sup>1</sup>**

### **Sec. 6.2.0. Technical code board of adjustment and appeals created.**

There is hereby created the technical codes board of adjustment and appeals in order to hear and decide appeals of orders, decisions or determinations made by a code official relative to the application, enforcement and interpretation of the various technical codes as adopted by the city. Said board shall have the powers, duties and authorities set forth in the administration and enforcement sections of the adopted codes, revisions thereof and amendments thereto mentioned in section 6.1 of this chapter, and which may be made in the future, except to the extent that the same is modified or altered by the provisions of this chapter.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.1. Board authority and decisions.**

- (1) The board shall be empowered to review any order, determination or interpretation of issues pursuant to or under the authority of any technical code then in force in the city and may, within its discretion, modify or reverse such determination or interpretation by a concurring vote of not less than four (4) members of the board. Such determination shall be by resolution duly adopted by such board, a copy of which shall be furnished to the petitioner and to the chief building official of the city.
- (2) The board shall have no authority relative to the interpretation of the "means of administration" of the code nor shall the board be empowered to waive any code requirement duly adopted.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.2. Membership and qualifications of board members.**

The board shall consist of seven (7) persons, appointed by the city manager. Board members may or may not be citizens of the city, but shall possess a business license and actively practice their respective trades within the boundaries of the city. The board shall consist of professionals with current registration or licensure in the following capacities:

- (1) Alabama registered architect.
- (2) Alabama registered professional engineer.
- (3) Alabama licensed home builder.
- (4) Alabama licensed general contractor.
- (5) Alabama licensed electrical contractor.
- (6) Alabama licensed master plumber and gas fitter.

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<sup>1</sup>Editor's note(s)—Ord. No. 12-O-17, § 1, adopted Dec. 11, 2012, amended the former Art. II, § 6.2, §§ 6.2.1—6.2.14 in its entirety, and enacted a new Art. II as set out herein. The former Art. II pertained to board of adjustment and appeals and derived from Ord. No. 03-O-7, § 1, 7-22-2003.

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- (7) Alabama licensed HVAC contractor.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.3. Members and term limits.**

Members of the board shall have the following term limits:

- (1) The Alabama Registered Architect and Alabama Licensed Home Builder members shall be the current annual president of the American Institute of Architects, Northeast Alabama Chapter and the Home Builders Association of Greater Calhoun County, respectively or their respective designated representatives. Their terms on the board shall be concurrent with the terms they serve as presidents of their professional organizations.
- (2) The remaining board members shall serve initially for the following terms: one (1) for a five-year term; one (1) for a four-year term; one (1) for a three-year term; one (1) for a two-year term; and, one (1) for a one-year term. Thereafter, each new member shall serve for five (5) years or until a successor has been appointed. In the case of a successor, the newly-appointed member shall serve the remainder of the original term.
- (3) The chief building official of the city shall serve as an ex-officio member of the board and shall provide technical assistance to the board, but shall not have a vote in matters presented before the board.
- (4) The city manager shall appoint two (2) alternate members who shall replace regular members during temporary absences or during the recusal of sitting members. Alternate members shall have the same professional qualifications that they would need to be regular members. Alternate members shall serve for two (2) years or until a successor is chosen.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.4. Compensation of and disqualification of members.**

- (1) Board members shall serve without compensation.
- (2) A member shall not hear an appeal in which that member has a personal, professional or financial conflict of interest. An alternate member shall replace the sitting member during matters of conflict.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.5. Officers of the board.**

The board shall annually select one (1) of its members to serve as chairperson.

The city manager shall designate a qualified clerk to serve as secretary to the board. The secretary shall file and maintain detailed records of all proceedings.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.6. Rules and procedures.**

- (1) The board shall meet upon notice from the chairperson, within ten (10) days of the filing of a notice to appeal.
- (2) The board is authorized to establish policies and procedures necessary to conduct its meetings.

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- (3) All hearings before the board shall be open to the public.
  - (4) The petitioner, the petitioner's representative, and the code official and any other person whose interests are affected shall be given an opportunity to be heard.
  - (5) The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted.
  - (6) The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
  - (7) The code official shall take immediate action in accordance with the decision of the board.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.7. Postponed hearing.**

When a quorum of members are not present to hear an appeal, either the petitioner or the petitioner's representative shall have the right to request a postponement of the hearing.

(Ord. No. 12-O-17, § 1, 12-11-2012)

### **Sec. 6.2.8. Right of appeal.**

A person shall have the right to appeal a decision of a code official to the board. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. A petition to be heard before the Board shall be made on applications provided by the chief building official. The application shall be filed within twenty (20) days after the notice was served to the petitioner, or the right to appeal is waived. Service of a decision by the building official may be affected by personally serving any such party or by mailing a copy thereof at such person's last known address by certified mail.

(Ord. No. 12-O-17, § 1, 12-11-2012)