

RECOMMENDED BY: THE PUBLIC IMPROVEMENTS AND BEAUTIFICATION
& PARKS AND RECREATION COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

ORDINANCE NO. 17-100

AN ORDINANCE TO AMEND ORDINANCE NO. 14-198, “THE STORM WATER PROTECTION ORDINANCE OF THE CITY OF BIRMINGHAM”, CHAPTER 10, “STORM WATER APPEALS BOARD” TO REDUCE THE NUMBER OF MEMBERS OF THE BOARD FROM SEVEN TO FIVE AND TO FURTHER PROVIDE FOR THE OPERATION OF THE BOARD.

SECTION 1. BE IT ORDAINED by the Council of the City of Birmingham that Ordinance No. 14-198, “The Storm Water Protection Ordinance of the City of Birmingham”, Chapter 10, “Storm Water Appeals Board”, shall be amended to reduce the number of members from seven to five and to further provide for the operation of the board as follows:

“Chapter 10. STORM WATER APPEALS BOARD

“Section 1000 ESTABLISHED.

‘The storm water appeals board (SAB) shall be composed of five members appointed as provided in this division and have the duties provided herein.

“Section 1001 COMPOSITION; TERMS; FILLING VACANCIES.

“a) The five members of the board shall be appointed by the council. The council shall appoint members with the following qualifications: one member who is an environmental engineer or an environmental scientist; one person who is employed by or retired from a utility, industrial or commercial establishment regulated by this chapter; one person who is an officer of a neighborhood association under the City’s Citizen Participation Plan; one person from either an environmental or conservation group; and one resident of the City of Birmingham appointed at large. The city’s storm water administrator or his designee shall attend all meetings of the board.

“b) Each member shall be a resident of the city who has a recognized interest in storm water management; provided, however, that in the event that no city residents apply to fill vacancies for the positions for environmental engineer/scientist, utility/business representative or environmental/conservation group representative, the council may appoint a person who does not reside in the city but who is a business owner or employee of a utility, business or organization that has its principal place of business in the city.

c) The members shall serve until their successor is appointed. In the event of a vacancy, the council shall appoint a member to fill the unexpired term subject to approval by the council. The SAB shall select its own chair and vice chair. All officers shall serve for terms of one year.

“d) The initial terms of office shall be as follows: the terms of two (2) members shall be for two (2) years and the terms of three (3) members shall be three (3) years. Following the expiration of a member’s initial term, each member’s appointment thereafter shall be for a term of two (2) years. Should a vacancy occur prior to expiration of a member’s term, a successor shall be appointed by the council from a list of interested individuals provided by the city official.

e) An appointee shall cease to be a member of the SAB upon the appointee's death, being declared inactive or resignation or upon the appointee's ceasing to reside in the city. Appointments to fill any vacancies on the committee shall be made only for the unexpired portion of the term so vacated.

“f) SAB members shall serve without compensation.

“g) The SAB shall meet and organize as soon as possible after appointments. Members shall annually elect from among its members a chairman and vice-chairman. The records of the proceedings of the SAB shall be maintained by the director of planning, engineering, and permits, or his designee. Such records shall set forth the reasons for the committee's decisions. The records of SAB shall be open for public inspection at the office of the director of planning, engineering, and permits, or his designee during normal business hours.

h) The SAB shall establish rules and regulations for its own procedures, consistent with the provisions of this section.

“Section 1002 MEETINGS; QUORUM.

“a) The SAB shall meet at least six times a year on a bimonthly basis and such special meetings as the chair may find necessary.

“b) A majority of the SAB shall constitute a quorum. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal.

“c) The SAB meetings, deliberations, and records shall be open to the public. The SAB may elect to provide for public comment on relevant issues.

“d) The storm water administrator or his or her designee shall act as secretary for the storm water appeals board and shall record all meetings and hearings of the Board and shall prepare the minutes of all SAB meetings showing the final motions and decisions of the board.

“Section 1003 GENERAL DUTIES OF THE SAB.

“In addition to any other duty or responsibility otherwise conferred upon the SAB by this title, the SAB shall have the duty and power as follows:

“a) To recommend from time to time to the council that it amend or modify the provisions of this ordinance;

“b) To hold hearings upon appeals from actions of the city official, as may be provided under any provision of this title relating to storm water;

“c) To hold hearings relating to the suspension, revocation, or modification of a storm water discharge decision and issue appropriate decisions relating thereto;

“d) To hold such other hearings as may be required in the administration of this title and to make such determinations and issue such decisions as may be necessary to effectuate the purposes of this title;

“Section 1004 HEARING PROCEDURE.

“a) The SAB shall make a record of such hearing as prescribed in section 1002 of this ordinance.

“b) Any person aggrieved by any order or determination of the city official may appeal said order or determination to the SAB and have such order or determination reviewed by the SAB under the provisions of this title. The party shall have 30 days to petition the SAB in order to appeal the city official’s decision. A written notice of appeal shall be filed with the city clerk, and such notice shall set forth with particularity the action or inaction of the city complained of and the relief sought by the person filing said appeal. Upon receiving such appeal, the clerk shall immediately forward the notice to the chair of the board and the storm water administrator. The appeal shall be heard at the next regular meeting of the SAB but the chair may call a special meeting of the SAB to specifically hear the appeal. The SAB may, in its discretion, suspend the operation of the decision or determination of the city until such time as the SAB has acted upon the appeal.

“c) The SAB shall give written notice of decisions of the appeal to the petitioner. The decision shall be issued to no later than 30 days following the close of the hearing.

“d) The vice-chair or the chair pro tem shall possess all the authority delegated to the chair by this section when action in his/her absence or in his/her stead is required.

“e) An appeal may be filed with the city council by any person aggrieved by any determination of the SAB within ten (10) days of the decision of the board. The appeal shall be filed in writing with the city clerk and a hearing shall be held before the council.

SECTION 2. The provisions of this Ordinance are hereby declared to be severable. If any of these sections, provisions, sentences, clauses phrases, or parts are held to be unconstitutional or void, the remainder shall continue in full force and effect.

SECTION 3. This Ordinance shall become effective upon publication as required by law.

Adopted by the Council August 1, 2017 and Approved by the Mayor August 16, 2017



A CERTIFIED COPY
Lee Frazier, City Clerk
Birmingham, Al
Lee Frazier