

COMMITTEE ON ALABAMA MONUMENT PROTECTION  
ADMINISTRATIVE CODECHAPTER 584-X-1  
GENERAL RULES584-X-1-.04      Applications For Waiver.

(1) No Waiver for Memorials or Monuments in Place for 40 or More Years. A controlling entity that is responsible for an architecturally significant building, memorial building, memorial street, or monument that is located on public property and has been in that location for 40 or more years may not relocate, remove, alter, rename, or otherwise disturb the architecturally significant building, memorial building, memorial street, or monument, nor permit such action by any other party. Notwithstanding the above, emergency repairs or construction as provided in 584-X-1-.04 (13), and activities conducted in accordance with the provisions therein, shall not constitute a violation of these rules or the Alabama Memorial Preservation Act of 2017.

(2) Requests for Waiver for Memorials or Monuments in Place for at Least 20 Years and Less than 40 Years. A controlling entity that is responsible for an architecturally significant building, memorial building, memorial street, or monument that is located on public property and has been in that location for at least 20 years, but less than 40 years may request a waiver for relocation, removal, alteration, renaming or other form of disturbance.

(3) Requests for Waiver for Memorial Schools in Place at Least 20 Years. A controlling entity that is responsible for a memorial school that is located on public property and has been so situated for 20 or more years may request a waiver for renaming.

(4) Entity Submitting Application for Waiver. The application for a waiver must be submitted by the controlling entity. If a second entity has control or custody of the memorial or monument but not the public property on which it sits, the second entity may endorse the controlling entity's application for waiver but may not initiate the application.

(5) Application for Waiver. The committee shall adopt guidelines for the application for waiver. The guidelines shall be made available to the public and shall require, at a minimum, the following:

- (a) A standard cover form identifying the controlling entity and enumerating the required attachments.

(b) A formal resolution by the controlling entity seeking a waiver.

1. The formal resolution adopted by the controlling entity must have been presented for public input prior to adoption by the controlling entity.

2. Public notice of the intent to adopt the resolution must be published in the same manner used by the controlling entity for notification of other public actions. The public notice must be published no less than 30 days before consideration of the resolution for adoption by the controlling entity.

(c) A written statement of purpose for the proposed relocation, removal, alteration, renaming, or other disturbance. The statement shall include photographs, maps, and other documentation as necessary to convey a clear articulation of the controlling entity's purpose in seeking a waiver.

(d) Written documentation of the original dedication or designation of the architecturally significant building, memorial building, memorial school, memorial street, or monument; the intent of the sponsoring entity at the time of dedication; and any subsequent alteration, renaming, or other disturbance of the architecturally significant building, memorial building, memorial school, memorial street, or monument.

(e) Written commentary from any heritage, historical, genealogical, or preservation organizations with interest in the decision of the controlling entity, and from the general public. Letters of support or disagreement from interested organizations or the general public shall include supporting documentation, references, photographs, or other credible materials.

(f) A written statement of any facts that were not known at the time of the origin of the architecturally significant building, memorial building, memorial school, memorial street, or monument, but are known now, that the committee should consider. The absence of such facts should serve as a presumption against the granting of a waiver by the committee.

(6) Technical Review of the Application for Waiver Form. The committee shall designate a Technical Advisory Review Group to perform the administrative and technical review of the Applications for Waiver. The Technical Advisory Review Group, at a minimum, shall include the Director of Alabama Historical Commission or designee, the Director of the Alabama Department of Archives and History or designee, and the Assistant Finance Director, Real Property Management or designee. The Technical

Advisory Review Group shall be responsible for reviewing Applications for Waiver to ensure the applications are complete and include the required information for consideration and that the information provided is consistent with the intention of the Act and applicable to the waiver request. The Technical Advisory Review Group shall provide comments and recommendations to the Committee. The review and recommendations of the Technical Advisory Review Group shall be limited to the historical and technical scope of the application.

(7) Schedule for Submittal and Review of Applications for Waiver. The committee shall annually establish a schedule for the deadlines for submitting and reviewing applications for waivers. The schedule established by the Committee shall provide for at least one quarterly meeting to consider the applications for waiver. The schedule shall include the deadline for submitting the applications for consideration at the quarterly meeting. To provide adequate time for review of applications by the Technical Advisory Review Group, the schedule shall provide a minimum of 30 calendar days from the application deadline to the publication of the agenda for the committee meeting.

(8) Public Notice of Application for Waiver.

(a) The committee shall publish an agenda on the Alabama Open Meetings Act website at least 14 calendar days prior to a meeting to consider applications for waiver. The agenda shall serve as notice to the public.

(b) At least 14 calendar days prior to a meeting, the Committee shall post on a website the applications for waiver to be considered and the recommendations of the Technical Advisory Review Group.

(9) Public Comment on Applications for Waiver. The committee shall adopt rules that allow for public comment during the meeting in which the application for waiver is considered.

(10) Granting of Waiver. The committee shall provide formal notification of the granting or denial of a waiver to the controlling entity. If a waiver is granted, the notification shall include the limitations or extent of the waiver and any reasonable conditions or instructions to ensure restoration or preservation to the greatest extent possible. If a waiver is denied, the notification shall include reasons for denying the waiver.

(11) Failure of the Committee to Act. If the committee fails to act on a completed, eligible application for waiver within 90 days of the submittal deadline, the waiver shall be deemed granted.

(12) Resubmittal of Application for Waiver. If a waiver is denied by the committee, the controlling entity will be permitted to resubmit an application for waiver one time during a two-year

period from the time of the committee's decision. The resubmittal of an application for waiver must include new information in order to be considered by the committee.

(13) Notice of Emergency Repairs or Construction. If a need exists for emergency repairs or construction at the site of or adjacent to the architecturally significant building, memorial building, memorial street, or monument, the controlling entity may temporarily relocate or otherwise protect the memorial or monument without submitting an application for waiver but must comply with the following:

(a) The controlling entity must notify the Committee in writing as soon as discovering the need for repairs or construction but no more than ten (10) calendar days after discovering the need for emergency repairs or construction affecting the architecturally significant building, memorial building, memorial street, or monument. The committee shall post the controlling entity's notice on a website within three business days of receipt.

(b) The controlling entity must include a written description of the actions taken to relocate or otherwise protect the architecturally significant building, memorial building, memorial street, or monument. This written description of action may be included in the emergency notification or may be submitted after evaluation of the emergency need but must be submitted a minimum of five (5) days prior to starting the emergency repairs or construction.

(c) The controlling entity must provide a timeline for completing the emergency repairs or construction including the date for returning a memorial or monument to its original location or removing any temporary protection of a memorial or monument. If the timeline for completing the emergency work and restoring the memorial or monument to its pre-emergency condition is more than one year from the discovery of the need for emergency repairs or construction, the controlling entity must submit an application for waiver for consideration of the Committee.

(d) The controlling entity must provide a notice of completion to the committee including the date when the monument is returned to its location. The committee shall post the controlling entity's notice of completion on a website within three business days of receipt.

**Author:** Alyce M. Spruell, Chair

**Statutory Authority:** Code of Ala. 1975, §41-9-237.

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