

**Committee on Alabama Monument Protection**

**April 14, 2020**

**11:00 AM**

**Online Access:**

<https://algov.webex.com/algov/onstage/g.php?MTID=e2604cde0e30b97ccc2c824c5131fae7d>

**Or by Telephone:**

- a. Dial **415-655-0001**
- b. When prompted, enter access code **284 998 121#**
- c. When asked for an attendee number, simply press # again. The number is not needed.

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**AGENDA**

- I. Procedural Actions – Alyce Spruell, Chair
  - a. Call to order
  - b. Declaration of quorum
  - c. Acknowledgment of authorization for online meeting by Governor’s Proclamation of March 18, 2020
  - d. Acknowledgment of proper notice required by the Open Meetings Act
  - e. Adoption of agenda
  - f. Approval of minutes of the April 7, 2020, meeting
- II. Report of the Subcommittee on Rules
- III. Action on Proposed General Rules
- IV. Review of 2020 Committee Meeting schedule
- V. Adjournment



STATE OF ALABAMA  
**PROCLAMATION**  
BY THE GOVERNOR

**WHEREAS**, on March 13, 2020, I declared the existence of a state public health emergency based on the appearance of the 2019 novel coronavirus known as COVID-19 in the State of Alabama;

**WHEREAS** that initial proclamation included provisions designed to assist in preventing the spread of COVID-19 and in mitigating the consequences of COVID-19;

**WHEREAS**, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention ("CDC") issued the "15 Days to Slow the Spread" guidance advising individuals to adopt far-reaching social-distancing measures, such as working from home and avoiding gatherings of more than 10 people; and

**WHEREAS** new implications of COVID-19 come to light on a continual basis, requiring flexibility and adaptability by all levels of government within the State of Alabama;

**NOW, THEREFORE**, I, Kay Ivey, Governor of the State of Alabama, pursuant to relevant provisions of the Alabama Emergency Management Act of 1955, as amended, Ala. Code §§ 31-9-1 *et seq.*, do hereby proclaim the existence of conditions that warrant implementation of additional extraordinary measures and relief during the state health emergency now in effect in order to guard public health and protect human life. I therefore proclaim and direct all of the following:

**I. Rescheduling of the March 31, 2020, Primary Runoff Election**

I find that conducting the primary runoff election currently scheduled for March 31, 2020, poses a serious public-health threat because there is not enough time before then to implement best practices for safely conducting an election under conditions related to COVID-19. To that end:

- A. The primary runoff election scheduled for March 31, 2020, is hereby rescheduled to July 14, 2020.
- B. Nothing in this section shall be construed to alter, amend, or modify any other provision of state law regarding the conduct of this primary runoff election. The Secretary of State and appropriate election officials shall take all reasonable efforts to publicize voter registration and absentee-voting opportunities.
- C. The Secretary of State shall amend his Administrative Calendar to reflect the rescheduled primary runoff date and provide a copy to all appropriate election officials via certified mail and email. The Secretary of State shall also provide an amended copy of the Alabama Fair Campaign Practices Act filing calendar to all

candidates and committees participating in the rescheduled primary runoff election.

## **II. School Closures**

This supplemental proclamation shall ratify my previous order, issued orally on March 13, 2020, requiring the closure of all K-12 public schools at the end of the day Wednesday, March 18, 2020, with reopening scheduled for the start of school on Monday, April 6, 2020, should circumstances permit. Nothing in this section shall supersede any decision or order issued prior to the date of this supplemental proclamation that require school closures to a greater extent than required by this section. The State Superintendent of Education and State Health Officer shall consult with one another on a continuing basis and provide recommendations to me, as warranted, regarding the opening or closure of schools in response to COVID-19.

## **III. Open Meetings Act**

I find that the government response to COVID-19 requires a careful balance between concerns for public health and safety (including the effectiveness of COVID-19 mitigation strategies), for the continued operations of governmental body, and for the right of the public to the open conduct of government. To that end:

- A. Notwithstanding any provision of the Open Meetings Act, members of a governmental body may participate in a meeting—and establish a quorum, deliberate, and take action—by means of telephone conference, video conference, or other similar communications equipment if:
  - 1. Any deliberation conducted, or action taken, during the meeting is limited to matters within the governmental body's statutory authority that is (a) necessary to respond to COVID-19 or (b) necessary to perform essential minimum functions of the governmental body; and
  - 2. The communications equipment allows all persons participating in the meeting to hear one another at the same time.
- B. Governmental bodies conducting a meeting pursuant to this section are encouraged, to the maximum extent possible, to use communications equipment that allows members of the public to listen to, observe, or participate in the meeting.
- C. No less than twelve hours following the conclusion of a meeting conducted pursuant to this section, a governmental body shall post a summary of the meeting in a prominent location on its website—or, if it has no website, in any other location or using any other method designed to provide reasonable notice to the public. The summary shall recount the deliberations conducted and the actions taken with reasonable specificity to allow the public to understand what happened.
- D. Nothing in this section shall be construed to alter, amend, or modify any other provision of the Open Meetings Act, including the notice requirements found in section 36-25A-3 and the enforcement, penalty, and remedy provisions found in section 36-25A-9. Any action or actions taken in violation of paragraph A will be deemed invalid.
- E. To the maximum extent possible, the terms used in this section shall have the same meaning as the terms defined in section 36-25A-2 of the Open Meetings Act.



#### IV. Procurement of emergency-related supplies

I find that state agencies and local awarding authorities may be required to procure goods or services to properly and adequately respond to the public health threat posed by COVID-19. Therefore, my emergency proclamation dated March 13, 2020, shall satisfy the notice and writing requirements of the emergency provisions found in sections 41-16-23 and 41-16-53 of the competitive bid law. I hereby authorize state agencies and local awarding authorities to enter into contracts for goods and services without public advertisement to the extent necessary to respond to COVID-19. State agencies and local awarding authorities shall maintain accurate and fully itemized records of all expenditures made pursuant to this section.

#### V. Reimbursement for certain state employees

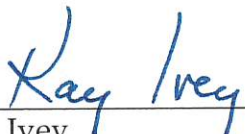
I proclaim that it is fair, reasonable, and appropriate that those State of Alabama employees who are required to perform response services away from their home base of operations be reimbursed for the actual expenses they incur while performing these services on behalf of the State of Alabama. Therefore, I authorize the reimbursement of actual and necessary expenses, as prescribed by the Fiscal Policies and Procedures Manual, for state employees who have been, are being, or may be called away from their home base in response to this state of emergency. All such claims for expense reimbursement must be reasonable and must be certified as such by the employee's agency head or appointing authority.

**FURTHER**, to the extent a provision of this supplemental proclamation conflicts with any provision of state law, such law is hereby suspended for the duration of this state of emergency, and this proclamation shall control.

**FURTHER**, I declare that this proclamation and all subsequent orders, laws, rules, or regulations issued pursuant hereto shall remain in full force and effect for the duration of the public health emergency unless rescinded or extended by proclamation.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal to be affixed by the Secretary of State at the State Capitol in the City of Montgomery on this 18th day of March, 2020.

  
 Kay Ivey  
 Governor

ATTEST:

  
 John H. Merrill  
 Secretary of State

[Home](#) | [Sign In](#) | [View Notices](#)**Posted-By:** Committee on Alabama Monument Protection**Meeting-Date:** 4/14/2020**Meeting-Time:** 11:00 AM**Meeting-Location:**

Online meeting: Details in Notice below  
Montgomery, AL 36130

**Phone-Number:** 334-242-4441**Meeting-Type:** special/called**Submission-datetime:** 4/7/2020 3:56:43 PM**Notice History:**

Submitted on 4/7/2020 3:56:43 PM

**Notice:**

This meeting will take place online as authorized by Governor Ivey's emergency proclamation of March 18, 2020. The public may observe the meeting using one of two methods:

1. Using a computer equipped with a microphone and speakers, direct your browser to this

URL and follow the on-screen instructions: [bit.ly/CAMP0414](https://bit.ly/CAMP0414)

2. Using a telephone:

- a. Dial 415-655-0001
- b. When prompted, enter access code 284 998 121#
- c. When asked for an attendee number, simply press # again. The number is not needed.

The public will be able to log in beginning at 10:50 AM.

[Statements/Policies](#) | [info.alabama.gov](https://info.alabama.gov) | [alabama.gov](https://alabama.gov) | [Contact Us](#)

**Committee on Alabama Monument Protection (CAMP)**  
**Minutes of April 7, 2020**  
**11:00 a.m.**  
**Online meeting via Webex**

**Recording of Meeting:**

<https://algov.webex.com/algov/lsr.php?RCID=2c2f571670fa92953dd19facd0d56dc5>

**Recording Password:**

WbTT36xE

**Members present:**

Alyce Spruell, *Chair*  
Sen. Gerald Allen  
Dr. Judson Edwards, *Vice Chair*  
Mayor Gary Fuller  
Rep. Laura Hall  
Dr. Richard Rhone  
Sen. Bobby Singleton  
Commissioner Randy Vest  
Rep. Rich Wingo

**Members absent:**

Gen. Ed Crowell

**Agency staff present:**

Mickey Allen, Department of Finance  
Jim Entrekin, Legislative Services Agency  
Caleb Hindman, Legislative Services Agency  
Lisa Jones, Historical Commission  
Steve Murray, Department of Archives & History  
Karen Smith, Legislative Services Agency  
Tunisia Thomas, Department of Archives & History  
Lee Ann Wofford, Historical Commission

**Welcome and call to order:** Chairwoman Alyce Spruell called the meeting to order at 11:08 a.m. and welcomed committee members, staff, and guests.

**Acknowledgment of authorization for online meeting:** Chairwoman Spruell acknowledged that the online board meeting was held in compliance with the Governor's Proclamation of March 18, 2020.

**Declaration of quorum and proper advance notice of meeting:** Chairwoman Spruell confirmed that a quorum was present and that the board meeting had been announced in advance and in accordance with the Open Meetings Act.

**Adoption of agenda:** Chairwoman Spruell called for a motion to adopt the agenda. *Representative Hall moved that the agenda be adopted. Senator Allen seconded, and the motion was carried by unanimous voice vote.*

**Approval of minutes:** Chairwoman Spruell called for a motion to approve the minutes of the last board meeting. *Dr. Rhone moved that the minutes of the January 23, 2020, board meeting be approved as*

*written and distributed prior to today's meeting. Mayor Fuller seconded, and the motion was carried by unanimous voice vote.*

**Consideration of Written Comments on Proposed General Rules:** The committee received four submissions of written comments from members of the public in advance of the meeting.

**Consideration of Verbal Comments on Proposed General Rules:** The committee heard remarks from four members of the public during the meeting.

**Action on Proposed General Rules:** Chairwoman Spruell proposed that the committee refer both written and verbal comments by the public to the subcommittee on rules for review. *Senator Allen moved that the written and verbal comments on the proposed general rules be referred to the subcommittee on rules, which will review the comments and subsequently provide a written report to the full committee by Friday, April 10, at 5:00 p.m. Mayor Fuller seconded, and the motion was carried by unanimous voice vote.*

Chairwoman Spruell proposed that the committee meet on Tuesday, April 14, at 11:00 a.m. to consider the report from the subcommittee on rules. *Senator Singleton moved that the committee meet on Tuesday, April 14, at 11:00 a.m. to consider the report of the subcommittee on rules. Senator Allen seconded, and the motion was carried by unanimous voice vote.*

A notice of the meeting will be posted on the Alabama Open Meetings website today.

**Review of 2020 Committee Meeting schedule:** Confirmation of the proposed 2020 committee meeting schedule will be deferred to the April 14, 2020, meeting.

**Adjournment:** *Mayor Fuller moved that the meeting be adjourned. Senator Singleton seconded, and the motion was carried by unanimous voice vote.*

The meeting was adjourned at 11:46 a.m.

Approved by the Committee on \_\_\_\_\_

\_\_\_\_\_  
Alyce Spruell, Chair



Rules Subcommittee Report  
Commission on Monument Preservation  
April 10, 2020

The Rules Subcommittee met on Thursday, April 9, 2020 at 10am by telephone conference call to discuss the public comments received on April 7<sup>th</sup> regarding the CAMP proposed administrative rules.

Subcommittee members in attendance were Mayor Gary Fuller, Professor Judson Edwards, Senator Bobby Singleton and Alyce Spruell. Also in attendance were Steve Murray and Tunisia Thomas with ADAH; Jim Entrekin and Karen Smith with LSA Legal Division; Amanda Brown with Senator Singleton's Office; Susan Kennedy, Earle Hilliard, Jr., and Tracy Roberts with the City of Birmingham Legal Department; and Anne Debro, Office of General Counsel for Alabama A & M University.

The Subcommittee members received the report from Steve Murray and Jim Entriekman regarding the staff review of the oral and written public comments, with recommendations for any changes or modifications based upon that review. After that review and discussion, and opening the meeting to any public comments and questions as well, the subcommittee requested that the staff involved revise the proposed administrative rules, tracking changes, based on the staff recommendations and the subcommittee discussions. Distribution of that document was agreed to be sent to subcommittee members by email late afternoon on April 9<sup>th</sup>.

The Subcommittee agreed to meet again on Friday, April 10, 2020, to review and consider the revised rules for discussion and review.

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The Rules Subcommittee met on Friday, April 10, 2020 at 11am by telephone conference call to review the revised proposed administrative rules distributed on the afternoon of April 9, 2020. Subcommittee members in attendance were Mayor Gary Fuller, Professor Judson Edwards, Senator Bobby Singleton and Alyce Spruell. Also in attendance were Steve Murray and Tunisia Thomas with ADAH; Jim Entrekin with LSA Legal Division; Lisa Jones and Lee Ann Wofford with the AHC; Amanda Brown with Senator Singleton's Office; Susan Kennedy with the City of Birmingham Legal Department; and Anne Debro, Office of General Counsel for Alabama A & M University.

After review of the revised proposed administrative rules, and motion by Professor Judson Edwards and second by Senator Singleton, the same were unanimously approved for report and transmission to the full CAMP Committee, along with this subcommittee report and the staff recommendations provided to the Subcommittee on April 9<sup>th</sup>.

Respectfully submitted,

Alyce M. Spruell, Chair

**Murray, Steve**

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**From:** ROGER BROXTON <[REDACTED]>  
**Sent:** Monday, April 6, 2020 1:13 PM  
**To:** Murray, Steve; gerald allen  
**Cc:** rogerbroxton  
**Subject:** Proposed Rules for the Committee on Alabama Monument Protection

Dear Mr. Steve Murray and Senator Gerald Allen,

The Rules proposed for the Committee on Alabama Monument Protection have a number of flaws, some of which, violate the Alabama Memorial Preservation Act of 2017, which was sponsored by Senator Gerald Allen and passed by the Legislature, and directly oppose the intent of the Act to protect our Monuments, to wit:

**Comment 1-A**

584-X-1-.02 Definitions: (9) Otherwise Disturb: Rule says: "The term does not include the installation of adjacent signage..." This language should be totally removed, because the Memorial Preservation Act does NOT provide for any such signage to be installed at Monuments and thereby this language violates the Act. Also, any modern day signs added "diminish the memorial intent expressed at the time of dedication", as stated in the previous sentence of the same Rule. Instead of preserving and protecting actual history as expressed in and on the Monument, such signage changes and adds to history. The people who erected these Monuments placed inscriptions, art and pictures on these Monuments that THEY wanted. Had they wanted other signage, THEY would have done so, then. Preserve their history, do NOT add to it!

**Comment 1-B**

584-X-1-.04 Applications for Waiver: Paragraph (1): 40+ year-old Monuments are NOT under the jurisdiction of the Committee on Alabama Monument Protection, see Section 41-9-232(a) of the Act and therefore are NOT subject to any of the Committee's Rules. Only 20-40 year old Monuments and Memorial Schools are under the Committee's jurisdiction, see Section 41-9-232(b)(c) of the Act and subject to the Committee's Rules for waiver under 41-9-235. The entire Paragraph (1) should be totally removed, because it violates the Act.

**Comment 1-C**

Paragraph (8): The Public Notice of Application for Waiver ONLY allows the public 3 DAYS to review the Application AND the Technical Advisory Review Group's recommendations BEFORE the Committee votes on the Application. That does NOT meet the criteria for public input! Language should be changed to read 30 days for the public to review the Application and another 30 days for the public to review the Advisory Review Group's recommendations, before a vote by the Committee.

Sincerely,  
Roger Broxton

[REDACTED]  
Andalusia, Alabama 36420

**Murray, Steve**

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**From:** RON <[REDACTED]>  
**Sent:** Monday, April 6, 2020 3:24 PM  
**To:** Murray, Steve  
**Cc:** gerald.allen@alsenate.gov  
**Subject:** Proposed Bad changes to Historical Preservation Act

Dear Sirs:

It is my understanding that the New Rules regarding the Memorial Preservation Act of 2017 violates several sections of the law as sponsored by Senator Gerald Allen.

**Comment 2-A**

Any changes, other than the \$25,000 one-time penalty should be refuted, so as, not to strip the law of it's original and much needed intent.

Thanking You in advance,  
Ron Taylor  
Red Level, AL. [REDACTED]

**Murray, Steve**

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**From:** LA <[REDACTED]>  
**Sent:** Monday, April 6, 2020 11:50 PM  
**To:** Murray, Steve  
**Cc:** gerald.allen@alsenate.gov  
**Subject:** Committee on Alabama Monument Protection Proposed General Rules (Public Comments)

Members of the Committee on Alabama Monument Protection:

As I planned to make my comments regarding the proposed rules in person, I did not submit a formal letter through the mail as I believed the meeting tomorrow would be postponed due to the COVID-19 pandemic and closure of the Archives. Therefore, my concerns and comments regarding the proposed rules are noted within this email. I will try to be as succinct as possible but I do have four significant concerns to report.

**584-x-1-.02 Definitions****Comment 3-A****(9) Otherwise Disturb**

Concern: The part of the definition that reads ‘The term does not include the installation of adjacent signage providing contextualization or other interpretive text approved by the controlling entity and related to the architecturally significant building, memorial building, memorial street, or monument.’ should be stricken. This leaves room for agenda-based and inaccurate signage such as was placed at the Unknown Confederate Dead memorial monument and in newly placed “interpretive” signage at the restored Cyclorama - both in Atlanta, GA.

These are just two examples. I respectfully want to note that I do not trust any controlling entity, whether it be the State Archives or the City Councils of this state among others, to not try to take advantage of this. It is why memorials should speak for themselves, as originally inscribed, such as the memorial monument to Alabama’s deceased veterans on the capitol grounds along with the star on the top of the steps stating where President Jefferson Davis was sworn in. They already have inscriptions on them. Nothing needs to be “interpreted” or “contextualized”.

We’ve all seen where those ignorant of history or who appear to just operate on misplaced hate like to claim that memorials were put up as symbols of white supremacy. The last time I checked, the term “Confederate Soldiers and Sailors” does not exclude minorities! Also, the idea that people would give up what little bit of extra money they had during those hard times to erect such works of art just to “intimidate the black folk” is ludicrous. Everyone who fought in that war was honored. EVERYONE. However, that’s just one example. Imagine how Vietnam memorials might be disparaged in the future. Memorial monuments to deceased veterans are just that. They honor the sacrifice and are important to their descendants.

**584-x-1-.04 Applications for Waiver****Comment 3-B****(1) No Waiver for Memorials or Monuments in Place for 40 or More Years**



Concern: There should be no exceptions to this and the wording 'Except as provided in these rules' is concerning. When I read that phrase and then further through the proposed exemptions from applicability I was reminded of the dealings in Memphis regarding Forrest Park. I would suggest this be revisited to specifically prevent such schemes and other types of disturbance.

**Comment 3-C****(6) Technical Review of the Application of Waiver Form**

Concern: **The proposed Technical Advisory Group members are a concern.** They should not include members of the Committee but an independent advisory board such as a structural engineer, etc. who can better assess the specific claims for waivers.

**Comment 3-D****(11) Failure of Committee to Act**

**Concern: It states removal to be granted after 90 days if the committee fails to complete the process on a request for waiver. This should be changed to DENIED or a process for an extension until the committee can do it's due diligence should be created.** No business or government entity should get away without addressing issues. This appears on its face to get around the law and for the committee to avoid having to act on certain proposed waivers.

In closing, I hope that the creation of the proposed general rules was not as intent on circumventing the current law as it seems. I do truly appreciate your time and consideration of my comments. There were a few additional things but the aforementioned are my major concerns.

Sincerely,

Lori Adams  
Birmingham, AL

[REDACTED]  
Birmingham, Alabama 35238- [REDACTED]  
[REDACTED]  
[REDACTED]

Via E-mail Only

[Steve.Murray@Archives.Alabama.gov](mailto:Steve.Murray@Archives.Alabama.gov)

April 7, 2020

Steve Murray  
Director  
Alabama Department of Archives & History  
624 Washington Avenue  
Montgomery, Alabama 36130

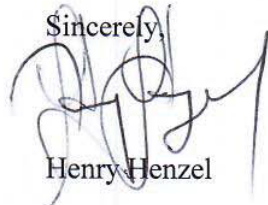
Re: Comments for Proposed Rules,  
Committee on Alabama Monument Protection  
Meeting, April 7, 2020

Dear Mr. Murray:

Accompanying this letter are my comments on the proposed rules for consideration by the committee at this morning's meeting. Ms. Spruell is to be complimented for a great job of drafting the proposed rules. To start from nothing and create a draft is quite an accomplishment and expenditure of time and effort. She deserves much credit and thanks from everyone.

My comments are a mixture of some technical and minor corrections, procedural suggestions to help the process of the committee's work and aide the public, and some very substantive legal issues which I view differently from the draft. They are offered in a spirit of helpfulness to the committee so that everyone in Alabama can have their favored history preserved.

Sincerely,



Henry Henzel

Enc.: Comments and suggestions on proposed rules.

cc: Honorable Gerald Allen (via e-mail);  
Ms. Alyce Spruell, Committee Chairwoman (via e-mail).

[Red indicates new text not in Committee's draft or re-positioned text. Lavender color over text identifies subject of comment in margin.]

# COMMITTEE ON ALABAMA MONUMENT PROTECTION

## CHAPTER 584-X-1 GENERAL RULES

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584-X-1-.01 Authority to Adopt Rules  
584-X-1-.02 Definitions  
584-X-1-.03 Permissible and Prohibited Modifications  
584-X-1-.04 Applications for Waiver  
584-X-1-.05 Exemptions from Applicability

**584-X-1-.01 Authority to Adopt Rules.** The Alabama Memorial Preservation Act of 2017, Code of Ala. 1975, §§41-9-230 through 41-9-237, provides for the appointment of the Committee on Alabama Monument Protection and authorizes the committee to adopt rules as necessary to provide for the implementation of the act.

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

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

**History:** Original rule filed: February 18, 2020.

### **584-X-1-.02 Definitions.**

(1) Alter. An action performed on a monument that includes any one of the following:

(a) Modification of a monument's structure or appearance from its existing condition through the physical removal or addition of material, text, or imagery.

(b) Installation, construction, or other action which obstructs the monument, restricts public access to the monument, or prevents the public's ability to perceive or view the monument.

(2) Architecturally Significant Building. A building located on public property that is listed in or eligible for the National Register of Historic Places based on its significance and its ability to meet the criterion requirements set by the National Park Service for



eligibility based on the building's architectural significance criterion (c). If a building is less than fifty (50) years old, it must also meet Criteria Consideration G to be considered eligible for the National Register of Historic Places. A building or structure's eligibility as an architecturally significant building shall be reviewed by a Technical Advisory Review Group appointed by the Committee on Alabama Monument Protection the National Park Service's federal guidelines regarding the National Register program.

(3) Committee. The Committee on Alabama Monument Protection as established by Act 2017-354.

(4) Controlling Entity. A governmental entity, an agency, board, authority, or other organization that has legal control of the public property on which an architecturally significant building, memorial building, memorial school, memorial street, or monument is located.

(5) Memorial Building. A public building, structure, park, or other institution at least 20 years but less than 40 years old that is not a memorial school and that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public commemorative action clearly intended to create an association of the building's name with a specific event, person, group, movement, or military service. A public building, structure, park, or other institution 40 or more years old located on public property shall be considered a "memorial building" within the definition of § 41-9-231(3) where evidence exists that such "memorial building" has had the name of an event, a person, a group, a movement, or military service for the past 40 or more years and that such designated name has been understood by the general public as being the memorial building's name.

(6) Memorial School. A public K-12 or two-year postsecondary institution or facility at least 20 years old but less than 40 year old that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public

#### Comment 4-A

**Commented [h1]:** Documents of National Park Service and National Register need identification with specific and full name of documents or rules and dates of same. It is unclear to ordinary reader where to find them or what the specific documents are entitled.

Two problems arise by adopting National Register/National Park Service standards. First, the monument committee effectively cedes definition of "architecturally significant building" to federal governmental entities beyond its control. The definitional criteria will be subject to change without committee control.

Second, the committee may wish to designate an important historic building as "architecturally significant" which may not meet all the criteria of the National Park Service and National Register standards but yet be important to Alabama history.

A solution is to specifically identify all National Park Service and National Register documents (with dates or edition versions) that apply and select the parts of that apply for our purposes in Alabama. Unless this is done, knowledge of the definitional criteria rests with people in Archives & History and The Historical Commission but not the public.

**Commented [h2]:** § 41-9-231 (7) makes clear that the monument law applies to governmental entities: "State of Alabama; any county, municipal, or metropolitan government in the state," etc. § 41-9-233 specifically references "governmental entity."

#### Comment 4-B (above)

#### Comment 4-C

**Commented [h3]:** There should be limited instances where there is need to identify old "memorial buildings." New text offers relief from unnecessary search for documentary proof where a "memorial building" bears the name of a designated person which has been known to the public. Governmental entities may not have original dedication records due to loss, fire or flood as in the case of very old buildings



commemorative action clearly intended to create an association of the building's name with a specific event, person, group, movement, or military service. A "memorial school" 40 or more years old that is located on public property shall be considered a "memorial school" within the definition of § 41-9-231(4) where evidence exists that such school has had the name of an event, a person, a group, a movement, or military service for the past 40 or more years and that such designated name has been understood by the general public as being the memorial school's name.

#### Comment 4-D

Commented [h4]: Same comment as in [h3] above  
Memorial Building.

(7) Memorial Street. A street that has been so designated at least 20 years but less than 40 years old that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public commemorative action intended to create an association of the street's name with a specific event, person, group, movement, or military service. A street 40 or more years old shall be considered a "memorial street" within the definition of § 41-9-231(5) where evidence exists that such "memorial street" has had the name of an event, a person, a group, a movement, or military service for the past 40 or more years and that such designated name has been seen by the general public as being the "memorial street's" name.

#### Comment 4-E

Commented [h5]: Same comment as in [h3] above  
Memorial Building.

(8) Monument. A statue, portrait, or marker at least 20 years but less than 40 years old intended at the time of dedication to be a permanent memorial to an event, person, group, movement, or military service that is part of the history of the people or geography now comprising the State of Alabama. Intent is evidenced by an official action of the controlling entity such as a resolution, statute, official dedication, or other public commemorative action intended to associate the monument with a specific event, person, group, movement, or military service. A statue, portrait, or marker 40 or more years old shall be considered a "permanent memorial" within the definition of § 41-9-231(6) where evidence exists that such "permanent memorial" has been located on public property for 40 or more years as a memorial to a person, a group, a movement, or military service for the past 40 or more years and is known by the public for such period of time. The term does not include signage bearing historical or interpretive text, commonly known as a historical marker or wayside exhibit, or portraits or

#### Comment 4-F

Commented [h6]: Same comment as in [h3] above  
Memorial Building.



plaques installed by temporary means and not intended to be permanent at the time of installation.

(9) Otherwise Disturb.

(a) Any action that specifically and purposefully intends to diminish the public's ability to view or interpret the architecturally significant building, memorial building, memorial street, or monument, or to diminish the memorial intent expressed at the time of dedication.

(b) The term "**otherwise disturb**" does not include the installation of adjacent signage providing contextualization or other interpretive text approved by the controlling entity and related to the architecturally significant building, memorial building, memorial street, or monument **provided it does not modify or diminish the intent of memorialization expressed at the time of dedication.**

(10) Public Property: All property owned or leased by the State of Alabama; any county, municipal, or metropolitan government in the state; or any other entity created by act of the Legislature to perform any public function.

(11) Relocate. The act of physically moving a building, structure, facility, park, institution, street, or monument from its original installation to any other location regardless of whether the new location is on public property.

(12) Remove. The act of permanently and physically eliminating or taking away a building, structure, facility, park, institution, street, or monument from its existing location.

(13) Rename. Changing the name of an architecturally significant building, memorial school, memorial building, or memorial street to the extent that it no longer honors the event, person, group, movement, or military service to which it was originally dedicated.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-231, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**Comment 4-G**

**Commented [h7]:** This proposed re-draft splits original ¶ 9 into two sub-paragraphs.

Any signage or interpretive text must not diminish public's access or to monument or denigrate the memorial's dedicated, expressed intent. This proposed text addition is consistent with *State of Alabama v. City of Birmingham*, \_\_\_ So. 3d \_\_\_, 2019 Lexis 132 at 10-13 (Ala. 2019). Interpretative signage text cannot be used to denigrate as it would serve to "disturb" and "diminish" the memorial object's original stated intent.

**584-X-1-.03      Permissible and Prohibited Modifications.**

(1)      Responsibility for Preservation and Protection. Pursuant to Code of Ala. 1975, §41-9-233, the governmental entity responsible for an architecturally significant building, memorial building, memorial school, memorial street, or monument may take proper and appropriate measures and exercise proper and appropriate means for the protection, preservation, care, repair, or restoration of those monuments, streets, or buildings.

(2)      Permissible Modifications, Architecturally Significant Buildings. Permissible modifications, which include actions to the extent necessary for protection, preservation, care, repair, or restoration, include the following:

(a)      Routine preventive maintenance of the structure, building systems, roof, or other building components that are necessary to maintain the building's integrity, appearance, or function and extend the life of the building without affecting its listing in or eligibility for the National Register of Historic Places. This work typically includes routine cleaning, replacement of filters, sealing, painting, or other periodic and repetitive work required to maintain the building. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

(b)      Repair work is work that is required to repair broken or worn out components that are necessary to maintain the building's integrity, appearance, or function and extend the life of the building without affecting its listing in or eligibility for the National Register of Historic Places. This work typically includes the removal of broken, missing, or worn-out building components and repairing them or replacing them in kind. Examples include the repair of rotten wood, replacement of a worn-out compressor, or the repair of a broken fixture. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

(c)      Replacement of systems beyond their useful life, but which are required to maintain the use of the

**Comment 4-H**

Commented [h8]: Text remains as originally drafted but same comment as in [h1] above.

**Comment 4-I**

Commented [h9]: Text remains as originally drafted but same comment as in [h1] above.



building. This work typically includes the replacement or upgrade of a building system, such as an electrical system; heating, ventilation and air conditioning (HVAC) system; roofing system; or other major building components that are required to extend the useful life of the historic building. All replacement work must not affect a building's listing in or eligibility for the National Register of Historic Places. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

#### Comment 4-J

Commented [h10]: Text remains as originally drafted but same comment as in [h1] above.

(d) Additions to architecturally significant buildings are permitted when the additions do not affect the building's listing in or eligibility for the National Register of Historic Places. All work should follow the Secretary of the Interior's Standards for Rehabilitation. Proposed additions to architecturally significant buildings shall be reviewed in accordance with the Secretary of the Interior's Standards for Rehabilitation.

#### Comment 4-K

Commented [h11]: Text remains as originally drafted but same comment as in [h1] above.

(3) Permissible Modifications, Memorial Buildings. Permissible modifications, which include actions necessary for protection, preservation, care, repair, or restoration, include the following:

(a) Routine preventive maintenance, repair work, replacement of systems, changes or upgrades to the building to mitigate further physical damage, replacement of outdated building systems, and other minor changes that are compatible with the architecture and style of the building at the time of its dedication or commemoration.

(b) Renovations and additions that allow for the continued use of the building or increase its functionality without detracting from the original memorial building.

(4) Permissible Modifications, Names of Architecturally Significant Buildings, Memorial Buildings, and Memorial Schools.

(a) The name of an architecturally significant building, memorial building, or memorial school may be transferred from one facility to another comparable facility with a similar function if the originally dedicated facility is closed or ceases to function. If the function of the facility ceases, the name is not transferred to a different facility, and the first facility is repurposed for another public use, the memorial name

shall be retained and modified to reflect the new use of the facility if the new use of the facility is comparable to its prior use as a public facility (e.g. Jane Smith Middle School to Jane Smith Community Center).

(b) Name changes that only affect the portions of the name that relate to the purpose, function, or use and that do not include changes to the name of the event, person, group, movement, or military service for which originally dedicated are permissible as long as the change in purpose, function, or use remains consistent with the purpose for which originally dedicated (e.g. John Doe Elementary School to John Doe Middle School).

(5) Permissible Modifications, Memorial Streets.

(a) Any work that is intended to be for the protection, preservation, care, repair, or restoration of the memorial street, including expansions.

(b) Name changes that only affect the portions of the name that relate to the purpose, function, or use and that do not include changes to the name of the event, person, group, movement, or military service for which originally dedicated are permissible as long as the change in purpose, function, or use remains consistent with the purpose for which originally dedicated (e.g. Jane Smith Avenue to Jane Smith Boulevard).

(6) Permissible Protection, Preservation, Monuments.

(a) Any work that is intended to be for the protection, preservation, care, repair or restoration of the monument including cleaning, restoration, and repairs, and which does not substantively affect the ~~content or~~ existing appearance of the monument.

(b) Portraits and other interior monuments may be placed in a new location as long as the new location is in the same building, is equally visible, and of equal prominence as the original location at the time of the portrait's or monument's original dedication or commemoration.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-233, 41-9-237.

**Comment 4-L**

**Commented [h12]:** This re-draft drops "Modifications" from the title line and replaces it with "Protection, Preservation" which are terms used in § 41-9-233. Section 233 of the code does not speak of "modifications."

**Commented [h13]:** Content cannot not be changed non-substantively or otherwise in order to avoid running afoul of "disturb[ing]" prohibition under § 232 and *State of Alabama v. City of Birmingham*, above. See comment [h7] above.

**Comment 4-M (above)**



**History:** Original rule filed: February 18, 2020.

**584-X-1-.04      Applications for Waiver.**

(1)      No Waiver for Memorials or Monuments in Place for 40 or More Years. ~~Except as provided in these rules,~~ 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.

(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.

**Comment 4-N**

**Commented [h14]:** Original (interlined) red text appears to be drafted to operate with draft rule .04 (13) below dealing with "Emergency Repairs." If this is the case, the monument law does not provide for waivers for monuments, memorial buildings, memorial streets or architecturally significant buildings 40 years or older. See § 41-9-232(a). Monuments, memorial Buildings, memorial streets, memorial schools, architecturally significant buildings, 20 years to less than 40 years old are subject to waiver process as referenced in §§ 41-9-232(b) & (c) which notes waiver § 235. Waiver § 235(a)(1) explains waiver process is available for §§ 232(b)&(c) but not 232(a) which protects 40 year and older memorials, monuments, etc. It is noteworthy that § 233 independently allows all memorials, monuments, etc. to be safeguarded for repair and restoration without a waiver process. Lastly, § 235 (2)(b) deals with site emergency repairs and construction. Subsection (b)(2) is written as a provision under preceding § 235(a)(1) which, as stated, excludes 40 year and older monuments, etc., from its operation. Repairing or re-working a site must be done without disturbing a § 232(a) covered and protected memorial building monument, etc. No waiver can be applied for or given.

**Comment 4-O**

**Commented [h15]:** This provision is too abstract and would benefit from an example illustrating a legal relationship between entity one and two that would be applicable under this proposed rule.



(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 first public notice publication, if more than one is required for notification of action, must be published no less than 30 days before a public hearing and consideration of the resolution for adoption by the controlling entity.

3. A public hearing specified in (b) (2) above must be held by the controlling entity before final consideration and adoption of the formal resolution. Evidence of the public hearing and consideration of the public's input, including written comments, must be included with a copy of the final, formal resolution adopted 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.

#### Comment 4-P

Commented [h16]: Proposed text clarifies time of publication to be in relation to a public hearing and makes clear that notice is for a public hearing.

#### Comment 4-Q

Commented [h17]: Committee should require public's written comments to be forwarded to it. The public's written comments will speak for themselves and do not need to be summarized by the controlling entity. Review of the written comments will allow the Committee an unbiased understanding of the public's input.

(f) A written statement of any pertinent 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.

#### Comment 4-R

**Commented [h18]:** It should be explained what type(s) of "pertinent facts" are being solicited for consideration.

(g) Completion, to the extent possible, of a questionnaire comprised of requests for information, documents and identification of facts that the Review Group will need from the lists of review criteria adopted by the Committee.

#### Comment 4-S

**Commented [h19]:** This new subparagraph suggests a way of making the Review Group's work quicker by asking applicant to provide criteria-based information in an organized format. In other words, this suggestion recommends that the checklists from criteria requirements be re-worked into the application process for the applicant to complete. Proposed wording recognizes many applicants will not have expertise to complete all information. If this helps shorten the work of the Review Group, it could allow the Review Group to produce its report more quickly. See comment [h22] below.

(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 **Committee 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.

#### Comment 4-T

**Commented [h20]:** Draft rule references "Committee" although it appears "Group" was intended.

(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 on a website notice of an application for waiver promptly upon receipt of same.

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

(c) The Committee shall allow the public the opportunity to review the application for waiver upon receipt of same and Technical Advisory Review Group's recommendations upon receipt of same but no later than 5 business days prior to the committee meeting, whichever is sooner.

(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.

**Comment 4-U**

**Commented [h21]:** Proposed text for this section is substantially changed and divided into three sub-paragraphs.

**Commented [h22]:** The Committee should have a website (or borrowed use of one) so that prompt notice of an application can be given. Although a controlling entity will have provided notice locally, many descendants of those memorialized and other persons interested in a memorial or monument are likely to live outside the controlling entity's area and not learn of a requested waiver through local publication. Notice via the Committee's website would be a statewide resource for this information. Just as the Committee needs time to review and reflect on a request for waiver, so do interested persons in order to make an informed decision to support or oppose an application.

**Comment 4-V (right)**

**Commented [h23]:** Application becomes a public document on receipt and should be immediately available to inquiring public. Proposed text changes availability of Review Group's report to 5 days prior to meeting instead of 3 days. (See comment [h18] above.) Review Group's report should likewise be promptly available to inquiring public. Original time proposals in draft text would make it unduly hard for public to be timely apprised of Committee's pending business and for inquiring public to have adequate time to provide informed input on an application. The public as well as the Committee needs time to review, research and reflect.

**Comment 4-W**

(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. **This information shall be immediately available to the inquiring public and notice of emergency notice shall be promptly posted on the committee's website.**

(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. **This information shall be immediately available to the inquiring public and promptly posted on the Committee's website.**

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

#### Comment 4-X

**Commented [h24]:** New proposed text. A filing becomes a public document and should be immediately available to the inquiring public. Website notice allows inquiring public easy access to information.

#### Comment 4-Y

**Commented [h25]:** New proposed text. The inquiring public needs to have an easy means of learning that the emergency has been abated.



**Statutory Authority:** Code of Ala. 1975, §§41-9-235, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**584-X-1-.05** **Exemptions from Applicability.** The provisions of the Alabama Memorial Preservation Act of 2017 and the administrative rules adopted hereto do not apply to any of the following:

- (1) Art and artifacts in the collections of museums, archives, and libraries.
- (2) Any architecturally significant building, memorial building, memorial street, or monument that is any of the following:
  - (a) Located on public property under the control of, or acquired by, the State Department of Transportation, which may interfere with the construction, maintenance, or operation of the public transportation system.
  - (b) Located on public property under the control of, or acquired by, a county or municipal body or a university, which may interfere with the construction, maintenance, or operation of the public transportation system.
  - (c) Located on public property operated or used by a utility, which may interfere with providing utility service.
  - (d) Located on public property under the control of, or acquired by, the Alabama State Port Authority, which may interfere with the construction, maintenance, or operation of the port infrastructure or port related activities.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-236, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**COMMITTEE ON ALABAMA MONUMENT PROTECTION (CAMP)  
AGENCY RESPONSES TO PUBLIC COMMENTS ON ADMINISTRATIVE RULES**

**Comments by Roger Braxton**

Comment 1-A

ADAH Response:

1. *The Act neither requires nor prohibits the installation of adjacent signage containing contextualization or interpretive text. The Act directs the CAMP to “adopt rules as necessary to provide for the implementation of this act including, but not limited to, further defining an architecturally significant building.” Addressing a likely scenario such as the installation of adjacent signage is within the scope of the CAMP’s responsibility, as are the several other scenarios addressed in the rules, such as the maintenance and updating of physical plants and the adaptation of memorial names to reflect changes in use of a facility.*
2. *The Alabama Supreme Court established in Alabama v. Birmingham that a controlling entity may not obscure a monument so it cannot be seen. As long as signage is adjacent to a monument and does not obscure the public’s ability to view the monument, it is not in violation of this case law.*
3. *Contextualization and interpretation are at the very heart of historical thinking and practice. The Act provides protection for the physical integrity of a monument and the public’s ability to see the monument, but it does not prohibit the appropriate function of reexamining history in the public sphere. To do so would privilege previous generations to the detriment of the present and future generations.*

LSA Response:

The Alabama Memorial Preservation Act of 2017 vests the Committee with relatively broad authority to “adopt rules as necessary to provide for the implementation of this article.” 41-9-237 Ala. Code 1975. Thus, addressing what is or what is not considered a disturbance of a covered monument or building appears to be within the rulemaking discretion of the Committee. There does not appear to be any legal or administrative reason why the Committee cannot address adjacent signage as a reference point for what is not included in the definition of disturbing a covered monument or building, and this type of action does not appear to clearly exceed statutory authority.

As stated in the ADAH response, the Alabama Supreme Court opined in State v. Birmingham that only adjacent signage that significantly modifies or interferes with a monument, including obscuring the visibility of the monument by the public, would come within the scope and applicability of the Act.

Comment 1-B

ADAH Response: *This paragraph is in the rules because it reiterates the core function of the law and is necessary for prefacing (“Except as provided in these rules”) 584-X-1-.04 (13) regarding Notice of Emergency Repairs or Construction.*

LSA Response: 40+ year-old monuments are covered by the Act and come under the scope of the Committee relative to its authority to adopt rules of implementation for the Act. Although statutorily speaking the Committee’s rules cannot change the fact that the waiver process does not apply to 40+ year-old covered monuments, the statutes appear to confer upon the Committee the authority to adopt rules that help define terms such as “relocate”, “alter”, or “disturb” so long as such rules neither contradict the intent and purpose of the Act, nor define terms contrary to the parameters established in the Act.

Comment 1-C

ADAH Response: *The CAMP has discretion on the length of the public review period. Under the meeting schedule approved in January 2020, the Technical Advisory Group’s review must be complete by the time the meeting agenda is posted, fourteen days in advance of the meeting. Transparency would be served by allowing the full fourteen days for public review of the application and TARG comments.*

LSA Response: This matter appears to fall within the discretion of the Committee.



**Comments by Ron Taylor**

Comment 2-A

ADAH Response: None

LSA Response: No provision of the draft rules appear to clearly exceed the statutory authority provided to the Committee by the Act.

### Comments by Lori Adams

#### Comment 3-A

ADAH Response:

1. *The Act directs the Committee on Alabama Monument Protection (CAMP) to “adopt rules as necessary to provide for the implementation of this act including, but not limited to, further defining an architecturally significant building.” Addressing a likely scenario such as the installation of adjacent signage is within the scope of the CAMP’s responsibility, as are the several other scenarios addressed in the rules, such as the maintenance and updating of physical plants and the adaptation of memorial names to reflect changes in use of a facility.*
2. *The Alabama Supreme Court established in Alabama v. Birmingham that a controlling entity may not obscure a monument so it cannot be seen. As long as signage is adjacent to a monument and does not obscure the public’s ability to view the monument, it is not in violation of this case law.*
3. *Contextualization and interpretation are at the very heart of historical thinking and practice. The Act provides protection for the physical integrity of a monument and the public’s ability to see the monument, but it does not prohibit the appropriate function of reexamining history in the public sphere. To do so would privilege previous generations to the detriment of the present and future generations.*

LSA Response:

The Alabama Memorial Preservation Act of 2017 vests the Committee with relatively broad authority to “adopt rules as necessary to provide for the implementation of this article.” 41-9-237 Ala. Code 1975. Thus, addressing what is or what is not considered a disturbance of a covered monument or building appears to be within the rulemaking discretion of the Committee. There does not appear to be any legal or administrative reason why the Committee cannot address adjacent signage as a reference point for what is not included in the definition of disturbing a covered monument or building, and this type of action does not appear to clearly exceed statutory authority.

As stated in the ADAH response, the Alabama Supreme Court opined in State v. Birmingham that only adjacent signage that significantly modifies or interferes with a monument, including obscuring the visibility of the monument by the public, would come within the scope and applicability of the Act.

#### Comment 3-B

ADAH Response: *This paragraph is in the rules because it reiterates the core function of the law and is necessary for prefacing (“Except as provided in these rules”) 584-X-1-.04 (13) regarding Notice of Emergency Repairs or Construction.*

LSA Response: 40+ year-old monuments are covered by the Act and come under the scope of the Committee relative to its authority to adopt rules of implementation for the Act. Although statutorily speaking the Committee’s rules cannot change the fact that the waiver process does

not apply to 40+ year-old covered monuments, the statutes appear to confer upon the Committee the authority to adopt rules that help define terms such as “relocate”, “alter”, or “disturb” so long as such rules neither contradict the intent and purpose of the Act, nor define terms contrary to the parameters established in the Act.

### Comment 3-C

ADAH Response:

1. *The Technical Advisory Review Group (TARG) includes the directors of the Alabama Historical Commission and the Alabama Department of Archives and History or their designees, and the Assistant Finance Director for Real Property Management or its designee. None of these individuals is a member of the CAMP. The rule specifies that the “review and recommendations of the Technical Advisory Review Group shall be limited to the historical and technical scope of the application.” Should a member of the TARG be appointed to the Committee by the governor or legislative leadership in the future, it would be appropriate for that member to designate someone in their stead for service on the TARG.*
2. *An independent advisory board would not have capacity to support the administrative work of the CAMP.*
3. *The Assistant Finance Director for Real Property Management oversees the state office with responsibility for public works management, including the construction and repair of facilities owned by state and local government. Its staff includes architects and inspectors.*

LSA Response: Given the rulemaking authority granted to the Committee, there does not appear to be any legal or administrative impediment to the establishment of the uncompensated technical advisory committee, and such activity does not appear to clearly exceed statutory authority.

### Comment 3-D

ADAH Response:

1. *Under the schedule adopted in January 2020, the longest period between a quarterly submittal deadline and the CAMP meeting is 62 days. During three quarters of the year, the period is 55 days. This leaves buffers of 28 or 35 days should a meeting need to be rescheduled.*
2. *More information on the frequency of this kind of provision in the Code of Alabama and the Alabama Administrative Code would be helpful. Seek guidance from LSA.*

LSA Response: This is a statutory requirement, see 41-9-235(c) Ala. Code 1975. The statute states that if the Committee fails to act upon an application within 90 days after its submission, the waiver is deemed granted.

## Comments by Henry Henzel

### Comment 4-A

ADAH Response:

1. *The rule appropriately references a widely recognized federal definition of architectural significance. An Internet search for “National Register of Historic Places Criterion C” will produce reliable information on this definition. The State Historic Preservation Office at the Alabama Historical Commission (AHC) routinely assists the public in understanding and applying this criterion.*
2. *The CAMP’s purpose is not to designate structures of architectural significance. The AHC already performs this function through administration of the National Register and the Alabama Register.*

**LSA Response:** Given the statutory authority granted to the Committee, there does not appear to be any legal reason why the Committee could not adopt such a policy within its rules, and such an action does not appear to clearly exceed statutory authority.

AHC Response:

*The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the National Park Service's National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.*

*The National Park Service offers guidance on evaluating, documenting, and listing different types of historic places through the National Register Bulletin series and other publications.*

*National Register Bulletin 15 ([https://www.nps.gov/subjects/nationalregister/upload/NRB-15\\_web508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf)) and National Register Bulletin 16A (<https://www.nps.gov/subjects/nationalregister/upload/NRB16A-Complete.pdf>) provides all the necessary guidance for determining eligibility for the National Register.*

*Using federal standards that are applicable in all states helps to ensure objectivity in the evaluation process for determining eligibility for architecturally significant buildings. These guidelines and standards are recognized as historic preservation best practices for evaluating historic properties.*

### Comment 4-B

ADAH Response: *The Act applies to all monuments, etc., on public property. Some public property is under the control of quasi-governmental organizations or nongovernmental organizations. The Subcommittee on Rules considered this distinction during the drafting process and concluded that controlling entity is the better term.*

LSA Response: No additional comment.

Comment 4-C

ADAH Response: *The term Memorial Building appropriately applies regardless of age. Subsequent rules related to permissible modifications and emergency repairs and construction are dependent on this definition.*

LSA Response: The proposed definition appears to appropriately build upon the statutory definition.

Comment 4-D

ADAH Response: *See response to Comment 4-C.*

LSA Response: The proposed definition appears to appropriately build upon the statutory definition.

Comment 4-E

ADAH Response: *See response to Comment 4-C.*

LSA Response: The proposed definition appears to appropriately build upon the statutory definition.

Comment 4-F

ADAH Response: *See response to Comment 4-C.*

LSA Response: The proposed definition appears to appropriately build upon the statutory definition.

Comment 4-G

ADAH Response:

1. *No objection to breaking the original paragraph into two paragraphs.*
2. *The proposed additional text ("provided it does not modify or diminish the intent...") creates another problem of definition that should be avoided. Alabama v. Birmingham did not find that signage serves to disturb or diminish the memorial object's stated intent. It found that a plywood barrier that obstructs the public view of a monument serves to alter or disturb the monument.*

LSA Response: No additional comment.

Comment 4-H

ADAH Response: *See response to Comment 4-A.*

LSA Response: *See response to Comment 4-A.*

Comment 4-I

ADAH Response: *See response to Comment 4-A.*

LSA Response: *See response to Comment 4-A.*

Comment 4-J

ADAH Response: *See response to Comment 4-A.*

LSA Response: *See response to Comment 4-A.*

Comment 4-K

ADAH Response: *See response to Comment 4-A.*

LSA Response: *See response to Comment 4-A.*

Comment 4-L

ADAH Response: *The concern addressed by the proposed edit is already addressed in paragraph (a), which defines such permissible modifications as “for the protection, preservation, care, repair, or restoration of the monument including cleaning, restoration, and repairs....” This is a good example of where modification is sometimes necessary for preservation. For example, a monument made of concrete may have been improperly waterproofed at its joints during construction or during previous repairs. The strictest reading of the law would require that the controlling entity replace failed waterproofing with the same kind of inferior waterproofing even if a superior product or process is now available. Using a better waterproofing system is an example of modification which need not “substantively affect the content or existing appearance of the monument.”*

LSA Response: *No additional comment.*

Comment 4-M

ADAH Response: *The comment serves to underscore why it is important to have the word content in the rule. Modifications for preservation must not affect the content.*

LSA Response: *No additional comment.*

Comment 4-N

ADAH Response: *Paragraph (1) exists to stipulate that there is no waiver process for memorials in place 40 years or more. As indicated Mr. Henzel, it also acknowledges that paragraph 13 becomes applicable if emergency repair or construction is needed.*

LSA Response: *No additional comment.*

Comment 4-O

ADAH Response:

1. *What is LSA's advice on how specific a rule should be in describing hypotheticals?*
2. *Example for consideration by the Subcommittee but not recommended to go in an administrative rule: The Alabama Historical Commission owns the site of Fort Mims. The Friends of Fort Mims, a private nonprofit, has sponsored and maintains several monuments on the property. It is conceivable that the Friends group would want to relocate a monument in place between 20 and 40 years in order to improve the interpretation of the site. This rule says that the AHC would have to apply for the waiver, but the Friends group can endorse it. (Lisa Jones will correct me if I'm wrong on these details.)*

LSA Response: Our office does have an opinion as to whether the Committee should or should not include a hypothetical description in its rules, or how specific the hypothetical should be, if included. While not common, our office has come across the occasional use of hypotheticals in agency rules in the past.

Comment 4-P

ADAH Response: *No objection to the intent of the proposed additional language. However, in revisiting the Act I see that it does not require a public hearing before adoption of a resolution by a controlling entity, merely that that the resulting petition be accompanied by "written commentary from any heritage, historical, genealogical, or preservation organizations with interest in the decision of the controlling entity, and from the general public."*

LSA Response: No additional comment.

Comment 4-Q

ADAH Response: *No objection to the intent of the proposed additional language, but the Subcommittee should consider whether to retain the requirement of a public hearing for the reason stated in the response to Comment 4-P. Question to LSA: Is this an acceptable increase by administrative rule in the requirements for the application process?*

LSA Response: Given the authority granted to the Committee for implementation of the Act, this provision regarding public notice does not appear to be clearly exceeding statutory authority, if it decides to do so.

Comment 4-R

ADAH Response: *A very good point. The Act does not provide guidance or a definition. And I question the use of the term "pertinent" in the rule, which does not appear in the Act.*

LSA Response: No additional comment.

Comment 4-S

ADAH Response: *This need will be addressed in the cover form required by .04 (5) (a).*



LSA Response: No additional comment.

Comment 4-T

ADAH Response: *Good catch. Change should be made.*

LSA Response: No additional comment.

Comment 4-U

ADAH Response: *No objection to breaking the paragraph into parts.*

LSA Response: No additional comment.

Comment 4-V

ADAH Response:

1. *Looking for input from the AHC on how soon they post notice of applications received for National Register nominations and preservation tax credits. It is in fact a public record upon receipt, but it is subject to review by the TARG for compliance with requirements. It also needs to be checked for personally identifiable information (PII) which would need to be redacted to protect the privacy of citizens.*
2. *There's a separate administrative question of a CAMP website: where it resides, who maintains it.*

LSA Response: No additional comment.

Comment 4-W

ADAH Response: *As indicated in response to Comment 1-C, transparency is enhanced by extending the window for public review of the application and the TARG comments. This could easily be extended to the date of publication of the agenda, providing fourteen days instead of three.*

LSA Response: No additional comment.

Comment 4-X

ADAH Response: *A good suggestion leaning toward transparency, but the administrative question re the website remains.*

LSA Response: No additional comment.

Comment 4-Y

ADAH Response: *See response to Comment 4-X.*

LSA Response: No additional comment.

Revised Draft Approved by Subcommittee on Rules on 4/10/20

COMMITTEE ON ALABAMA MONUMENT PROTECTION

CHAPTER 584-X-1  
GENERAL RULES

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**584-X-1-.01**     **Authority to Adopt Rules.** The Alabama Memorial Preservation Act of 2017, Code of Ala. 1975, §§41-9-230 through 41-9-237, provides for the appointment of the Committee on Alabama Monument Protection and authorizes the committee to adopt rules as necessary to provide for the implementation of the act.

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

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

**History:** Original rule filed: February 18, 2020.

**584-X-1-.02**     **Definitions.**

(1)             Alter. An action performed on a monument that includes any one of the following:

(a)             Modification of a monument's structure or appearance from its existing condition through the physical removal or addition of material, text, or imagery.

(b)             Installation, construction, or other action which obstructs the monument, restricts public access to the monument, or prevents the public's ability to perceive or view the monument.

(2)             Architecturally Significant Building. A building located on public property that is listed in or eligible for the National Register of Historic Places based on its significance and its ability to meet the criterion

requirements set by the National Park Service for eligibility based on the building's architectural significance (criterion C). If a building is less than fifty (50) years old, it must also meet Criteria Consideration G to be considered eligible for the National Register of Historic Places. A building or structure's eligibility as an architecturally significant building shall be reviewed by a Technical Advisory Review Group appointed by the Committee on Alabama Monument Protection and in accordance with the National Park Service's federal guidelines regarding the National Register program.

(3) Committee. The Committee on Alabama Monument Protection as established by Act 2017-354.

(4) Controlling Entity. An agency, board, authority, or other organization that has legal control of the public property on which an architecturally significant building, memorial building, memorial school, memorial street, or monument is located.

(5) Memorial Building. A public building, structure, park, or other institution that is not a memorial school and that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public commemorative action clearly intended to create an association of the building's name with a specific event, person, group, movement, or military service.

(6) Memorial School. A public K-12 or two-year postsecondary institution or facility that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public commemorative action clearly intended to create an association of the building's name with a specific event, person, group, movement, or military service.

(7) Memorial Street. A street that is located on public property and constructed for, named for, or dedicated in honor of an event, a person, a group, a



movement, or military service as evidenced by an official action of the controlling entity, such as a resolution, statute, official dedication, or other public commemorative action intended to create an association of the street's name with a specific event, person, group, movement, or military service.

(8) Monument. A statue, portrait, or marker intended at the time of dedication to be a permanent memorial to an event, person, group, movement, or military service that is part of the history of the people or geography now comprising the State of Alabama. Intent is evidenced by an official action of the controlling entity such as a resolution, statute, official dedication, or other public commemorative action intended to associate the monument with a specific event, person, group, movement, or military service. The term does not include signage bearing historical or interpretive text, commonly known as a historical marker or wayside exhibit, or portraits or plaques installed by temporary means and not intended to be permanent at the time of installation.

(9) Otherwise Disturb.

(a) Any action that specifically and purposefully intends to diminish the public's ability to view or interpret the architecturally significant building, memorial building, memorial street, or monument, or to ~~diminish the~~ interfere with the public's ability to view the memorial intent expressed at the time of dedication.

**Commented [SM1]:** In response to public comment, paragraph 9 is divided into two parts for clarity.

**Commented [SM2]:** Aligns rule with the standard set by Ala Supreme Court in Alabama v. Birmingham

(b) The term "otherwise disturb" does not include the installation of adjacent signage providing contextualization or other interpretive text approved by the controlling entity and related to the architecturally significant building, memorial building, memorial street, or monument, as long as such activity does not violate subsection (a) of this definition, or any other provision of either these rules or the Alabama Memorial Preservation Act of 2017, or any amendment thereto.

**Commented [SM3]:** Aligns rule with the standard set by Ala Supreme Court in Alabama v. Birmingham

(10) Public Property: All property owned or leased by the State of Alabama; any county, municipal, or metropolitan government in the state; or any other entity created by act of the Legislature to perform any public function.

(11) Relocate. The act of physically moving a building, structure, facility, park, institution, street, or monument from its original installation to any other location regardless of whether the new location is on public property.

(12) Remove. The act of permanently and physically eliminating or taking away a building, structure, facility, park, institution, street, or monument from its existing location.

(13) Rename. Changing the name of an architecturally significant building, memorial school, memorial building, or memorial street to the extent that it no longer honors the event, person, group, movement, or military service to which it was originally dedicated.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-231, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**584-X-1-.03 Permissible and Prohibited Modifications.**

(1) Responsibility for Preservation and Protection. Pursuant to Code of Ala. 1975, §41-9-233, the governmental entity responsible for an architecturally significant building, memorial building, memorial school, memorial street, or monument may take proper and appropriate measures and exercise proper and appropriate means for the protection, preservation, care, repair, or restoration of those monuments, streets, or buildings.

(2) Permissible Modifications, Architecturally Significant Buildings. Permissible modifications, which include actions to the extent necessary for protection, preservation, care, repair, or restoration, include the following:

(a) Routine preventive maintenance of the structure, building systems, roof, or other building components that are necessary to maintain the building's integrity, appearance, or function and extend the life of the building without affecting its listing in or eligibility for the National Register of Historic Places. This work typically includes routine cleaning, replacement

of filters, sealing, painting, or other periodic and repetitive work required to maintain the building. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

(b) Repair work is work that is required to repair broken or worn out components that are necessary to maintain the building's integrity, appearance, or function and extend the life of the building without affecting its listing in or eligibility for the National Register of Historic Places. This work typically includes the removal of broken, missing, or worn-out building components and repairing them or replacing them in kind. Examples include the repair of rotten wood, replacement of a worn-out compressor, or the repair of a broken fixture. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

(c) Replacement of systems beyond their useful life, but which are required to maintain the use of the building. This work typically includes the replacement or upgrade of a building system, such as an electrical system; heating, ventilation and air conditioning (HVAC) system; roofing system; or other major building components that are required to extend the useful life of the historic building. All replacement work must not affect a building's listing in or eligibility for the National Register of Historic Places. All work should follow the Secretary of the Interior's Standards for Rehabilitation.

(d) Additions to architecturally significant buildings are permitted when the additions do not affect the building's listing in or eligibility for the National Register of Historic Places. All work should follow the Secretary of the Interior's Standards for Rehabilitation. Proposed additions to architecturally significant buildings shall be reviewed in accordance with the Secretary of the Interior's Standards for Rehabilitation.

(3) Permissible Modifications, Memorial Buildings. Permissible modifications, which include actions necessary for protection, preservation, care, repair, or restoration, include the following:

(a) Routine preventive maintenance, repair work, replacement of systems, changes or upgrades to the building to mitigate further physical damage, replacement of



outdated building systems, and other minor changes that are compatible with the architecture and style of the building at the time of its dedication or commemoration.

(b) Renovations and additions that allow for the continued use of the building or increase its functionality without detracting from the original memorial building.

(4) Permissible Modifications, Names of Architecturally Significant Buildings, Memorial Buildings, and Memorial Schools.

(a) The name of an architecturally significant building, memorial building, or memorial school may be transferred from one facility to another comparable facility with a similar function if the originally dedicated facility is closed or ceases to function. If the function of the facility ceases, the name is not transferred to a different facility, and the first facility is repurposed for another public use, the memorial name shall be retained and modified to reflect the new use of the facility if the new use of the facility is comparable to its prior use as a public facility (e.g. Jane Smith Middle School to Jane Smith Community Center).

(b) Name changes that only affect the portions of the name that relate to the purpose, function, or use and that do not include changes to the name of the event, person, group, movement, or military service for which originally dedicated are permissible as long as the change in purpose, function, or use remains consistent with the purpose for which originally dedicated (e.g. John Doe Elementary School to John Doe Middle School).

(5) Permissible Modifications, Memorial Streets.

(a) Any work that is intended to be for the protection, preservation, care, repair, or restoration of the memorial street, including expansions.

(b) Name changes that only affect the portions of the name that relate to the purpose, function, or use and that do not include changes to the name of the event, person, group, movement, or military service for which originally dedicated are permissible as long as the change in purpose, function, or use remains consistent with the

purpose for which originally dedicated (e.g. Jane Smith Avenue to Jane Smith Boulevard).

(6) Permissible Modifications, Monuments.

(a) Any work that is intended to be for the protection, preservation, care, repair or restoration of the monument including cleaning, restoration, and repairs, and which does not substantively affect the content or existing appearance of the monument.

(b) Portraits and other interior monuments may be placed in a new location as long as the new location is in the same building, is equally visible, and of equal prominence as the original location at the time of the portrait's or monument's original dedication or commemoration.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-233, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**584-X-1-.04** Applications for Waiver.

(1) No Waiver for Memorials or Monuments in Place for 40 or More Years. ~~Except as provided in these rules, 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

**Commented [SM4]:** Revised for clarity in response to public comment.

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.

~~3. A public hearing must be held by the controlling entity before final consideration and adoption of the formal resolution. Evidence of the public hearing and consideration of the public's input must be included~~

~~with a copy of the final, formal resolution adopted by the controlling entity.~~

**Commented [SM5]:** A public hearing is not required by the statute. The requirement for written commentary in paragraph (5) (e) is considered sufficient documentation of community input for the committee's purposes.

(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 ~~pertinent~~ 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.~~

**Commented [SM6]:** The standard of "pertinent" is not provided by statute.

**Commented [SM7]:** This language exists in the statute and has direct bearing on the action of the committee. Added to rule.

(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 ~~Committee Group~~ shall be responsible for reviewing Applications for Waiver to ensure the applications are complete and include the required

**Commented [SM8]:** Revised for consistency in response to public comment.



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 ~~the a~~ meeting to consider ~~the~~ applications for waiver. The agenda shall serve as notice to the public.

(b) ~~The 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. allow the public the opportunity to review the application for waiver and Technical Advisory Review Group's recommendations 3 business days prior to the committee meeting.~~

**Commented [SM9]:** Public review period increased from 3 to 14 days in response to public comment.

(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.

Commented [SM10]: Added in response to public comment.

(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.

Commented [SM11]: Added in response to public comment.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-235, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**584-X-1-.05 Exemptions from Applicability.** The provisions of the Alabama Memorial Preservation Act of 2017 and the administrative rules adopted hereto do not apply to any of the following:

(1) Art and artifacts in the collections of museums, archives, and libraries.

(2) Any architecturally significant building, memorial building, memorial street, or monument that is any of the following:

(a) Located on public property under the control of, or acquired by, the State Department of Transportation, which may interfere with the construction, maintenance, or operation of the public transportation system.

(b) Located on public property under the control of, or acquired by, a county or municipal body or a university, which may interfere with the construction, maintenance, or operation of the public transportation system.

(c) Located on public property operated or used by a utility, which may interfere with providing utility service.

(d) Located on public property under the control of, or acquired by, the Alabama State Port Authority, which may interfere with the construction, maintenance, or operation of the port infrastructure or port related activities.

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

**Statutory Authority:** Code of Ala. 1975, §§41-9-236, 41-9-237.

**History:** Original rule filed: February 18, 2020.

**Committee on Alabama Monument Protection (CAMP)  
Scheduled Meetings and Waiver Application Deadlines  
Adopted January 23, 2020**

	Postmark Deadline to Submit Waiver Application	Days	TARG* Review Completed	Days	Agenda Approved by Chair and Published	Days	CAMP Meeting
1	----		----		----		Apr 7, 2020
2	----		----		----		Jul 9, 2020
3	Aug 7, 2020	34	Sep 10, 2020	7	Sep 17, 2020	14	Oct 1, 2020
4	Nov 6, 2020	34	Dec 10, 2020	7	Dec 17, 2020	21	Jan 7, 2021
5	Feb 5, 2021	34	Mar 11, 2021	7	Mar 18, 2021	14	Apr 1, 2021
6	May 14, 2021	34	Jun 17, 2021	7	Jun 24, 2021	14	Jul 8, 2021

\* Technical Advisory Review Group