

**HISTORY OF FIVE-VOTE REQUIREMENT
OF MEMPHIS-SHELBY COUNTY BOARD OF ADJUSTMENT**

1921 Priv. Acts ch. 165, enabling city zoning and a board of appeals (1921 Vol. I, p. 450):

Sec. 4, second paragraph (p. 453). Where a district proposal is protested, the district may be approved only by 4/5 of the legislative body (NOT the “Board of Appeals”).

Sec. 5 enables creation of a board of appeals for zoning matters, or referring matters to the existing City Planning Commission. **Says nothing regarding number of votes necessary.**

5/7 for CITY Board: 1925 Priv. Acts ch. 428, amending sec. 5 of 1921 Priv. Acts ch. 165, enabling creation of a city Board of Adjustment.

Sec. 1, amending 1921 Priv Acts ch. 165 sec. 5:

2d paragraph (p. 1620), 7 members	City Charter sec. 144
3d paragraph (p. 1621), Board shall adopt rules	City Charter sec. 145
9th para. (p. 1623), five-sevenths vote necessary	See Charter sec. 148= 4 votes

5/7 for COUNTY Board (original): 1931 Priv. Acts ch. 613, enabling zoning within 5 miles of Memphis city limits, and enabling a county Board of Adjustment (1931 Vol. 2, p. 1649):

Sec. 11:

1st paragraph (p. 1660) - establishes county Board of Adjustment - seven members	City Charter sec. 159.8
4th para. (p. 1661), Board shall adopt rules	City Charter sec. 159.8(d)
10th paragraph (p. 1663), five-sevenths vote req'd	City Charter sec. 159.8(j)

5/7 for COUNTY Board (reaffirmed): 1935 Priv. Acts ch. 625, enabling county zoning and again enabling a county Board of Adjustment (1935 Vol. 2, p. 1650):

Sec. 2 (p. 1652), Nothing herein repeals 1931 Priv. Acts ch. 613

Sec. 6 (p. 1655):

1st paragraph (p. 1655):

- creates county board of adjustment Co. Code sec. 25-297(a)
- seven members Co. Code sec. 25-297(a)

10th paragraph (p. 1658), **five-sevenths vote req'd** Co. Code sec. 25-297(j) 4

4 votes for CITY board: 1953 Priv. Acts ch. 289, amends 1925 Priv. Acts ch. 428, repealing 5/7 rule and requiring only “concurring vote of four members of the board” (Also enables temporary substitute members.)

City Charter sec. 148

4 votes for COUNTY Board: 1953 Priv. Acts ch. 309, amends 1935 Priv. Acts ch. 625. Replaces 5/7 with “concurring vote of four of the members....”

Co. Code sec. 25-297(j)

Joint Board of Adjustment: 1955 Priv. Acts ch. 352 (City), 353 (County), enabling a joint city-county Board of Adjustment:

Sec. 4, city and county shall fix number of members by ordinance City Charter sec. 108.2

Sec. 5, Board of Adjustment shall have power to make rules City Charter sec. 108.3

Sec. 7, Retaining procedure for city and county City Charter sec. 108.5

1970 Joint Ordinance-Resolution: 5 vote requirement

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