

**ARTICLE XIII**

**ZONING ADMINISTRATION AND ENFORCEMENT**

13.1 DUTIES AND POWERS OF THE ZONING ENFORCEMENT OFFICER.

- A. The Zoning Enforcement Officer shall be the municipal building official, as designated by the city council, whose duties shall be as follows.
- B. The Zoning Enforcement Officer is authorized and empowered on behalf and in the name of the council.
  - 1. To administer and enforce the provisions of this ordinance to include receiving applications, inspecting premises, and issuing certificates of zoning compliance and certificates of occupancy for uses and structures which are in conformance with the provisions of this ordinance.
  - 2. To act upon all matters dealing with zoning applications within the City and the City's planning jurisdiction.
  - 3. To interface on zoning matters with the general public and other governmental agencies as the representative for the City.
- C. The zoning enforcement officer does not have the authority to take final action on applications or matters involving variances, non-conforming uses, or other exceptions which this ordinance has reserved for public hearing before the Zoning Board of Adjustment, the Planning Commission, and/or the City Council.
- D. The zoning enforcement officer shall keep records of all and any permits, the certificates of occupancy issued, maps, plats and other documents with notations of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted and the same shall form a part of the records of his office and shall be made as a public record.

13.2 PERMITS AND CERTIFICATES.

Permits and certificates shall be issued in accordance with the following provisions:

- A. Building Permits. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Municipal Building Inspector has issued, for such work, a building permit including

a statement that the plans, specifications and intended use of such structure in all respects conforms with the provisions of this ordinance. Application for the building permit shall be made to the Municipal Building Inspector on forms provided for that purpose.

B. Approval of Plans and Issuance of Building Permit. It shall be unlawful for the Municipal Building Inspector to approve any plans or issue a building permit for any construction until he has inspected such plans in detail and found them in conformity with this ordinance. To this end, the Municipal Building Inspector shall require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by a plan or plat drawn to scale and showing sufficient detail to enable the Municipal Building Inspector to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this ordinance. The plan or plat shall include, as a minimum, the following:

1. The actual shape, proportion and dimensions of the lot to be built upon.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any building or other structures already on the lot.
3. The existing and intended use of all such buildings or other structures.

If the proposed excavation, construction, moving or alteration as set forth in the application, are in conformity with the provisions of this ordinance, the Municipal Building Inspector shall issue a building permit accordingly. If an application for a building permit is not approved, the building inspector of the municipality shall state in writing on the application the cause for such disapproval. Issuance of a building permit, shall, in no case, be construed as waiving any provisions of this ordinance.

C. Certificate of Occupancy. No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Municipal Building Inspector shall have issued a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after the owner or his agent has notified the Municipal Building Inspector that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Municipal Building Inspector to make a final inspection thereof and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance, or such certificate is refused, to state the refusal in writing with the cause.

13.3 ESTABLISHMENT OF THE ZONING BOARD OF ADJUSTMENTS.

The Zoning Board of Adjustments of the City of Robertsdale, Alabama, is hereby established; and, the following rules are set forth to govern its operation:

- A. Membership. The board of adjustment shall consist of five (5) members, appointed by the council of Robertsdale, Alabama, for overlapping terms of three (3) years. In addition, two (2) supernumerary members shall be appointed to serve at the call of the chairman only in the absence of regular members. Such members shall be appointed for three (3) years and shall be eligible for reappointment.
- B. Initial Appointment. The initial appointment of the board of adjustment shall be as follows: Two (2) members for one year; two (2) members for two (2) years; and one member for three (3) years.
- C. Vacancies. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. The council upon written charges and after public hearing thereon shall remove members for cause.
- D. Public Offices Held. No members shall hold any other public office or position, except that one member may be a member of the planning commission.
- E. Rules of Procedure. The board of adjustment shall observe the following procedures.
  - 1. Said board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs.
  - 2. Said board shall elect one of its members, other than a member of the planning commission, as chairman, who shall serve for one year or until he is re-elected or his successor is elected. Said board shall appoint a secretary
  - 3. The meeting of said board shall be held at the call of the chairman and at such other times as said board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena.
  - 4. All meetings of said board shall be open to the public.
  - 5. Said board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such

fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk, and shall be a public record.

- F. Duties and Powers. The board of adjustment shall have the following duties and powers.
1. Administrative Review - To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by zoning enforcement officer, or other administrative official, in the enforcement of this ordinance.
  2. Special Exceptions - To hear and decide special exceptions of the terms of this ordinance upon which said board is required to pass under this ordinance.
  3. Variances - To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special condition, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that:
    - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
    - b. The application of this ordinance to this particular piece of property would create an unnecessary hardship;
    - c. Such conditions are peculiar to the particular piece of property involved; and,
    - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.
  4. Uses not provided for - Whenever, in any district established under this

ordinance, a use is neither specifically permitted or denied and an application is made by a property owner to the zoning officer for such use, the zoning officer shall refer the application to the Zoning Board of Adjustments which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with permitted uses in the district, and in no way is in conflict with the general purpose and intent of this ordinance.

13.4 PROCEDURE FOR REQUESTING A HEARING.

Request for a hearing before the board of adjustment for an administrative review, special exception or a variance shall observe the following procedures:

- A. A completed application form must be filed with the zoning enforcement officer from whom the appeal is taken, and with the board of adjustment at least two (2) calendar weeks prior to the regular meeting of the board of adjustment. The application must include all specified pertinent data including an explanation of the grounds on which the appeal is being made.
- B. An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the zoning enforcement officer. Such site plan shall include, as a minimum, the following: Lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public), watercourse, and if existing and proposed, fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.
- C. The board of adjustment shall hear the appeal at its next regularly scheduled meeting, or, if for good reason this is not feasible, shall fix a reasonable time within twenty-one (21) days after the date of its regularly scheduled meeting for hearing the appeal. Public notice of the hearing shall be given by all of the following methods: (1) a printed notice in one or more newspapers of general circulation in the area affected by the appeal, in conformance with applicable state law and at least fifteen (15) days prior to the date of the hearing; such notice shall be printed in a type size easily readable by a person with normal vision; and, (2) notice by registered mail to the owners of all property within three hundred (300) feet of the affected property on the same side of the street, across the street, and to the rear of the affected property.
- D. The board of adjustment shall render a decision on any appeal or other matter before it within forty-five (45) days from the date of the public hearing on it.

- E. An appeal stays all legal proceedings in furtherance's of the action appealed from, unless the zoning enforcement officer certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the said board or by a court of record of application on notice to the official from whom the appeal is taken and on due cause shown.
- F. In exercising the powers granted the board of adjustment, the said board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the zoning enforcement officer, and may issue or direct the issuance of zoning compliance permit.
- G. Limitation, withdrawal, and citizen appeals:
  - 1. A property owner, or his appointed agent, shall not initiate action for a hearing before the board of adjustment relating to the same parcel of land more often than once every twelve (12) months on the same variance.
  - 2. Any petition for a hearing before the board may be withdrawn prior to action thereon by the board at the discretion of the person initiating such a request upon written notice to the secretary of the board.
  - 3. Any person or persons severally or jointly aggrieved by any decision of the board of adjustment may take, within fifteen (15) days thereafter appeal to the circuit court or like jurisdiction, by filing with such board a written notice of appeal specifying the judgment or decision from which appeal is taken.

13.5 DUTIES AND POWERS OF THE PLANNING COMMISSION.

- A. The commission is charged with the responsibility to review, apply and monitor the enforcement of this ordinance in accordance with the adopted comprehensive plan or portion thereof, which is adopted.
- B. The planning commission shall hear matters "on appeal" or require commission "approval" as herein specified.
- C. The commission shall hear and recommend to the city council on all matters of

zoning, rezoning (and in the case of municipalities, all cases of annexation).

- D. Requests before the commission shall adhere to the requirements specified herein, and the commission for the lawful rendering of its duty may establish as. To act upon all matters as detailed by the statues of the state of Alabama and ordinances as given by the City of Robertsdale.

13.6 PENALTIES.

Any person violating any provision of this ordinance shall be fined upon conviction, not less than two dollars (\$5.00) nor more than one hundred dollars (\$100.00) and cost of court for each offense. Each day such violation continues shall constitute a separate offense.

13.7 REMEDIES.

In case any building or structure is to be erected, constructed, reconstructed, altered, or converted, in violation of this ordinance, the building inspector, legal officer, or other appropriate authority or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation; or to prevent the occupancy of said building, structure, or land. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

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