

ORDINANCE NO. 2014-20

AN ORDINANCE OF THE TOWN OF OAKLAND, FLORIDA, ADOPTING A NEW ARTICLE V, “ADMINISTRATION AND ENFORCEMENT”, OF THE “ZONING CODE” OF THE TOWN OF OAKLAND; RESTATING AND REVISING SAID ARTICLE V IN ITS ENTIRETY; REPEALING PROVISIONS RELATING TO ZONING BOARD OF ADJUSTMENT AND APPEALS AND TRANSFERRING ITS DUTIES TO THE PLANNING AND ZONING BOARD; ESTABLISHING THE APPEARANCE REVIEW BOARD AND STATING ITS DUTIES; PROVIDING SPECIFICATIONS AS TO DUE PUBLIC NOTICE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OAKLAND, FLORIDA:

SECTION 1: A new Article V, “Administration and Enforcement” of the “Zoning Code” of the Town of Oakland is hereby adopted to read as follows:

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Section 5.1 Planning and Zoning Board

A Planning and Zoning Board (“P&Z Board”) is hereby established which shall consist of five (5) members who are to be appointed by the Town Commission, each for a term of three (3) years, except for the five (5) members first appointed, one shall be appointed for one year, two (2) shall be appointed for two (2) years, and two (2) shall be appointed for three (3) years. A member of the administrative staff shall be secretary of the P&Z Board.

1. Organization and members. The members of the P&Z Board shall elect one of its members to serve as Chairman. The term of the Chairman named by the P&Z Board shall be for a period of one year; provided, however, nothing shall prevent the P&Z Board from naming a Chairman to succeed himself. Each member of the P&Z Board must be a resident of the Town of Oakland. Members of the P&Z Board may be removed from office by the majority affirmative vote of the Town Commission for cause. Members may be removed by the Mayor for failure to attend two (2) consecutive regularly scheduled meetings, or for failure to attend three (3) of five (5) regularly scheduled meetings in a row. The chairman shall notify the Mayor when such a situation exists. The Mayor shall consider whether extenuating circumstances prevail, and either retain or remove that member accordingly. Vacancies shall be filled by the Mayor and confirmed by the majority vote of the Town Commission for the unexpired term of the member affected. Members of the P&Z Board shall receive no salaries or

fees, but may receive necessary travel, per diem, and other expenses while on official business for the Town.

2. Meetings and records. The P&Z Board shall hold regular meetings at such time as the P&Z Board may determine or at the call of the Chairman for the consideration of business before the P&Z Board. All regular and special meetings of the P&Z Board shall be open to the public. The time and place of meetings, and the order of business and procedure to be followed at meetings, shall be prescribed by the Town Planner. Three (3) members of the P&Z Board shall constitute a quorum and the affirmative vote of a majority of those present shall be necessary for any action thereof. A written record of the proceedings of the P&Z Board shall be kept, showing its action on each question considered. Such record shall be filed in the office of the Town Clerk and shall be open for public inspection.

3. Authority and duties of the Planning and Zoning Board. The P&Z Board shall have the following authority and duties:
 - (a) Render advice. To act in an advisory capacity to the Town Commission on questions relating to zoning and to conduct investigations on matters or proposals to change zoning regulations, and report its findings and recommendations on such proposals to the Town Commission.

 - (b) Recommend amendments. Recommend to the Town Commission such amendments to this Ordinance as the P&Z Board may deem proper and expedient or necessary to clarify or to carry into effect the purposes thereof.

 - (c) Advise on applications. Hear applications and submit recommendations to the Town Commission on the following:
 - (i) Proposed amendments to the Zoning Code including the Official Zoning Map. In connection with any recommendation by the P&Z Board of a change in zoning, the P&Z Board shall include any conditions, requirements or limitations to be attached to the use which the P&Z Board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the purposes and objectives of this ordinance;

 - (ii) Proposed subdivision plans;

 - (iii) Proposed planned unit developments (PUDs).

 - (d) Special Exceptions. To hear and recommend action to the Town Commission on such special exceptions as the P&Z Board is specifically authorized to act under the terms of this Zoning Code. In providing said recommendations, the P&Z Board may recommend appropriate conditions and safeguards deemed necessary to protect the public interest. The P&Z Board may also recommend a reasonable

time limit within which the action for which the special exception is required shall be begun or completed or both.

- (e) Administrative decisions. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination (collectively referred to hereinafter as “the Order”) made by an administrative official in the enforcement of this Zoning Code or amendments thereto. Such appeal shall be taken within thirty (30) days after the rendition of the Order appealed from by filing with the Town Manager a written statement specifying the grounds for the appeal. The administrative official who rendered the Order, upon notification of the filing of the appeal, shall forward to the P&Z Board all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was taken. Any appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the P&Z Board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the P&Z Board or by a court with proper jurisdiction. The concurring vote of a majority of all the members of the P&Z Board shall be necessary to reverse any Order of any such administrative official, or to decide in favor of the applicant on any matter upon which the P&Z Board is required to act.

- (e) Variances. To authorize upon application such variance from the terms of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the Code would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the Code, the P&Z Board must find:
 - (i) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved which are not applicable to other lands, structures, or buildings in the same zoning district;
 - (ii) That the special conditions and circumstances do not result from the actions of the applicant;
 - (iii) That granting the requested variance will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings, or structures in the same zoning district;
 - (iv) That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Code and would cause unnecessary and undue hardship to the applicant;
 - (v) That the variance granted is the minimum variance that will make possible

the reasonable use of the land, building or structure;

- (vi) That the granting of the variance will be in harmony with the general intent and purpose of the Code and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

In granting any variance, the P&Z Board may prescribe appropriate conditions and safeguards, and violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. The P&Z Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. Under no circumstances shall the P&Z Board grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the zoning district. No nonconforming use of neighboring lands or structures, or use of land or structures in other zoning districts, shall be considered grounds for the authorization of the variance.

Section 5.2 Zoning Amendment and Changes

Regulations, restrictions, boundaries and other provisions of this Zoning Code may, from time to time, be amended, supplemented, changed or repealed in the manner herein stated.

1. Amendments to the Zoning Code or to the Official Zoning Map may be initiated by the:
 - (a) Oakland Town Commission;
 - (b) Oakland Planning and Zoning Board; or
 - (c) Verified petition of the owner or owners of the property affected by such amendment to the Zoning Map; provided no petition shall be filed by such owner or owners affecting property which has been involved in a petition before the Oakland Planning and Zoning Board within the preceding twelve (12) month period. The petitioner(s) shall assume the cost of public notice, administrative review fees, application fees as adopted by resolution of the Town Commission and other costs pertaining to public hearings or as set forth by the pass through ordinance 2014-01.
2. All proposed amendments to the textual provisions of this Zoning Code or to the Official Zoning Map shall be submitted to the Town Planner on forms prescribed for the purpose of submitting such amendment for study, public hearing and recommendation. The Town Manager shall place the proposed amendment on the agenda of the Oakland Planning and Zoning Board and shall take all steps necessary for the Planning and Zoning Board to hold a public hearing on the proposed amendment.

3. No recommendation for change or amendment shall be considered by the Planning and Zoning Board until due notice has been given of a public hearing as specified in Section 5.10 of this Article.
4. After the public hearing, the Planning and Zoning Board shall transmit a written report of its findings and its recommendations to the Town Commission within forty-five (45) days from the date of such public hearing.
5. The Town Commission shall act upon the recommendation at the first regular meeting following the receipt of the report from the Planning and Zoning Board.
6. Should the Planning and Zoning Board fail to make its report and recommendation within the time limits prescribed, the Town Commission may take such action upon the proposed change or amendment as it deems advisable, based upon the facts available to it.
7. No proposal for a zoning change or amendment affecting particular property or properties shall contain conditions, limitations, or requirements not applicable to all other property in the district to which the particular property is proposed to be rezoned.
8. Nothing provided in this section shall affect the procedure required by law relating to the public hearing and the publication of notice thereof for any change or amendment to this Zoning Code.

Section 5.3 Form of Application

The verified petition of the owner for a change or amendment to the Official Zoning Map shall include the applicable fee, the legal description of the property involved prepared by a Florida registered land surveyor and accompanied by a map of the property at a scale of one inch (1") equals two hundred (200) feet, or such other scale as may be required by the Town Planner.

Section 5.4 Town Planner

The Town Planner under the supervision of the Town Manager shall administer and enforce this ordinance. He may be provided with assistance from such other officers, employees, and consultants of the Town as may be necessary to enforce the provisions of this ordinance. If the Town Planner finds that any of the provisions of this ordinance are being violated, he shall notify the Town Code Enforcement Officer so that the appropriate actions necessary to correct the violation are taken.

Section 5.5 Zoning of Newly Annexed Lands

When property is annexed into the Town of Oakland, the applicant/owner of the property being annexed may, concurrent with the annexation, apply for initial zoning. Such initial zoning shall be granted or denied based upon the then current Town standards and land use compatibility as

determined through the Town processes involving the Town Planner, Planning and Zoning Board, and Town Commission. If an annexation petition is not accompanied by an application for initial zoning, or if the requested initial zoning is not approved by the Town, the Town and applicant/owner shall each have the option to proceed with the annexation process of the property into the Town of Oakland with the then current Orange County zoning still applicable to such property.

Section 5.9 Appeals from the Planning and Zoning Board

Any person, or persons, jointly or severally, aggrieved by any decision of the Planning and Zoning Board may, within thirty (30) days after the filing of any decision in the office of the Town Clerk, but not thereafter, apply to the Town Commission for relief. Any appeal stays all proceedings in furtherance of the action appealed from, unless the Town Planner or Town Manager certifies to the Town Commission that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Town Commission or by a court with proper jurisdiction. The Town Commission shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may file a petition for certiorari to the Circuit Court for the Ninth Judicial Circuit for judicial relief within thirty (30) days after rendition of the decision on the appeal by the Town Commission.

Section 5.9 Appearance Review Board.

An Appearance Review Board (“ARB”) is hereby established which shall consist of five (5) members who are to be appointed by the Town Commission, each for a term of two (2) years, except for the five (5) members first appointed, two shall be appointed for one year, and three (3) shall be appointed for two (2) years. A member of the Town administrative staff shall be secretary of the ARB.

1. Organization and members. The members of the ARB shall elect one of its members to serve as Chairman and another to serve as Vice Chairman to preside over meetings when the Chairman is not present. The terms of the Chairman and Vice-Chairman named by the ARB shall be for a period of one year; provided, however, nothing shall prevent the ARB from naming a Chairman or Vice-Chairman to succeed himself or herself. Each member of the ARB must be a resident of the Town of Oakland. The ARB shall include three (3) members that are recognized practitioners in any one of the following fields: Architecture, engineering, landscape architecture, urban design, community planning, building/construction, or related field. Members of the ARB may be removed from office by the majority affirmative vote of the Town Commission for cause. Members may be removed by the Mayor for failure to attend two (2) consecutive regularly scheduled meetings, or for failure to attend three (3) of five (5) regularly scheduled meetings in a row. The Chairman shall notify the Mayor when such a situation exists. The Mayor shall consider whether extenuating circumstances prevail, and either retain or remove that member accordingly. Vacancies shall be filled by the Mayor and confirmed by the majority vote of the Town Commission for the unexpired term of the member affected. Members of the ARB shall receive no salaries or fees, but may receive necessary travel,

per diem, and other expenses while on official business for the Town.

2. Meetings, quorum and records. The ARB shall hold regular meetings at such time as the Town Planner may determine or at the call of the Chairman for the consideration of business before the Board. All regular and special meetings of the ARB shall be open to the public. The time and place of meetings, and the order of business and procedure to be followed at meetings, shall be prescribed by the Town Planner. Three (3) members of the ARB shall constitute a quorum and the affirmative vote of a majority of those present shall be necessary for any action thereof. A written record of the proceedings of the ARB shall be kept, showing its action on each question considered. Such record shall be filed in the office of the Town Clerk and shall be open for public inspection.
3. Authority and Duties of the ARB. The ARB shall review all non-residential, multi-family and mixed-use development proposals to ensure that proposed structures conform to the design standards provided in Article XVI of this Code, and are consistent with the general character of the area in which they are located, and the ARB shall then make recommendations on those subjects to the Planning and Zoning Board which makes recommendations to the Town Commission for final action.

Section 5.10 Due Public Notice

"Public notice" as used in connection with the phrase "public hearing," "hearing with due public notice," or similar phrase, referring to applications and appeals in which there is to be a public hearing of the Town Commission or of the Planning and Zoning Board as provided for in this section shall be satisfied as stated below:

(1) Legal notice (newspaper publication):

(a) The publication of notice with the following information: day, time, place and purpose, place or places within the Town where the change may be inspected by the public, and that interested parties may appear at the meeting and be heard with respect to the proposed change.

(b) Said notice shall be published at least once in a newspaper of general circulation in the area at least ten (10) days prior to the date of such public hearing, unless a longer notice period is required by statute for the type of application to be heard. Notices published in local newspapers shall meet or exceed the minimum requirements of state law as required by F.S. § 166.041, and F.S. ch. 163 as they may be amended from time to time.

(2) Individual notice (certified mailing):

(a) For applications affecting less than five percent (5%) of the total land area of the Town, notices setting forth the time, day, place and purpose of the hearing shall be mailed, by certified U.S. mail, at least ten (10) days prior to the date of the Planning and Zoning Board public hearing by the applicant to the last known address of the owners of the property involved, if the applicant is not the owner of the property involved, as well as, to the owners of property within 300 feet of the property lines of the property

involved, all as determined by reference to the latest records published by the Orange County Property Appraiser absent information as to ownership to the contrary.

(b) The Town Planner, or his or her designee, shall provide the notice forms to the owner of the property involved, or his or her duly authorized agent, and shall keep such notice available for public inspection during regular business hours. The applicant shall furnish the Town Planner, or his or her designee, a copy of each of the U.S. Postal Services certified mail receipt for each notice required to be sent, showing postmark in compliance with this ordinance prior to the date of the first hearing on the application.

(c) It is the intent of this provision that only one mailing is required to be sent to an owner of property within 300 feet of the property lines of the property involved, and that notice shall contain the time, day, and place of all public hearing(s).

(d) For amendments initiated by the Town, the required notice shall be sent by certified U.S. mail and a record of those to whom the notice was sent shall be maintained with the application file by the Town Planner.

(3) Posted notice (posted sign):

(a) For applications affecting less than five percent of the total land area of the Town, the owner or his or her duly authorized agent, or for applications initiated by the Town, a Town staff member or contractor hired by the Town, shall post signs provided by the Town Planner at least ten (10) days prior to the date of the public hearing.

(b) For purposes of posting property that is the subject of a Town initiated amendment, the notice shall be posted on public right-of-way in front of the property affected by the proposed amendment, but shall not be placed so as to obstruct the vision of drivers at any intersection, including driveway intersections.

(c) The Town shall not be required to place posted notices on or along any property lines that abut private streets or easements, but shall limit postings to streets maintained by the Town, Orange County, the Florida Department of Transportation, or the Florida's Turnpike Enterprise. Postings shall not be required when the public agency responsible for the affected right-of-way refuses to permit the posting within its right-of-way. The responsible Town agency shall not prohibit the posting of notice on rights-of-way maintained by the Town.

(d) The sign or signs provided by the Town Planner shall be printed on a brightly-colored, easily recognizable, weather-resistant material of minimum size that is 22 inches in width and 28 inches in height.

(e) One sign shall be posted for every 200 feet of front lot line. Corner properties will be posted on both front/street side lot lines.

(f) Each sign shall be placed in a location along the lot line that provides the greatest visibility from the adjacent street or road.

(g) The posted sign or signs shall remain in place until the completion of the public hearing of the Town commission and shall be removed by the applicant within ten (10) days following the conclusion of the last public hearing. Failure to remove the sign or signs after ten (10) days following the last noticed public hearing shall be a violation of this Code.

(h) Except for appeals, as otherwise provided for in this section, the Town Commission shall provide for a public notice, as used in connection with the phrase "public hearing" or "hearing with due public notice", for applications involving five percent (5%) or more of the land area of the Town in the manner as provided in F.S. § 166.041 as it may be amended from time to time. For plan amendments and Development Agreements affecting five percent (5%) or more of the total land area of the Town, notice shall be provided, as required by F.S. ch. 163 as it may be amended from time to time.

(i) When an agenda item for a public hearing that was duly advertised and noticed in accordance with this section is continued to a date certain, no further notice or advertisement shall be required. When a hearing is tabled or postponed without a date certain, the hearing and any subsequent hearing that may have been advertised and noticed shall be re-advertised and re-noticed in accordance with the requirements of this section.

Section 5.11 Fees

The Town Commission may from time to time establish by resolution such fee schedules as said Commission shall deem equitable and necessary to effectuate the intent and policy of this Zoning Code; provided, however, that said fee schedule shall bear a reasonable relationship to the services provided or costs actually incurred in the administration of these regulations.