

**ARTICLE 12  
ADMINISTRATION**

(rev. 01/03/2023 unless otherwise noted)

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**12.01 GENERAL PROCEDURE**

**12.0101 General Sequence of Steps**

All persons desiring to undertake any excavation, new construction, structural alteration, or changes in the in the use of a building or lot, shall first make application to the Department of Community Development. Depending on the type of development or use requested, the application will be forwarded to the appropriate division, (e.g., planning or building), and other departments as warranted. The application and supporting information will be reviewed for compliance to all city requirements. If the application meets all requirements, then the appropriate permits or certificates may be issued. Upon completion of work authorized in any permit, the Building Official may issue a Certificate of Occupancy. Only then may a premise be occupied.

**12.0102 Building Permit Types**

Under the terms of this Ordinance, the following classes of building permit may be issued.

**12.010201 Permitted Use**

A building permit for a permitted use may be issued by the Building Official on his own authority as provided for in other sections of this Ordinance.

**12.010202 Building Permit after Appeal/Request for a Variance**

A building permit may be issued by the Building Official upon the order of the Board of Adjustment.

## **12.02 ZONING OFFICIAL**

The Zoning Official of the Municipality of Orange Beach, Alabama shall enforce this Ordinance. He shall issue no Certificate of Zoning Compliance unless it is in compliance with all provisions of this Ordinance.

## **12.03 ZONING COMPLIANCE AND/OR BUILDING PERMIT REQUIRED**

No building or structure shall be erected and no existing building shall be moved, altered, added to, or enlarged until a Certificate of Zoning Compliance and/or a permit has been issued. Except upon written order of the Board of Adjustment, no such Certificate of Zoning Compliance, building permit, or Certificate of Occupancy shall be issued for any building where such construction, addition, alteration or use thereof would be in violation of any provision of this Ordinance.

### **12.0301 Temporary Permits**

The Municipal Council shall have the right and the power to grant special temporary permits for periods not to exceed six (6) months, for the location and use of any structure, mobile home, etc., on any lot in any zoning district, subject to such terms, conditions or special limitations as the Council may prescribe or impose. The Municipal Council may renew or extend any such special permit for up to twelve (12) months. The combined term for any such special permit and the renewal or extension thereof shall, in no event, exceed eighteen (18) months. It is the intent of this Section to provide for flexibility of land use in community reorganization during periods immediately following natural disasters such as floods, hurricanes, fires or other disasters, or such other emergency situations.

## **12.04 CERTIFICATE OF OCCUPANCY**

No building hereafter erected, converted or structurally altered shall be used, occupied or changed in use until and unless the Building Official shall have issued a Certificate of Occupancy.

## **12.05 APPLICATION FOR BUILDING PERMIT**

Each application for a building permit shall be filed in written form with the Building Official, so that he/she may ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this Ordinance. Minimum requirements for an application for a building permit shall include:

- A.** A survey or plot plan showing the boundaries of the property involved, adjoining streets, the location and dimensions of the proposed building(s)/structure(s), the lot number, block number (if applicable) and subdivision name in which the property is located.
- B.** How far the proposed building/structure is from the front, rear, and side yards. Any other pertinent information required by the Building Official.

**12.06 ENFORCEMENT**

**12.0601 Right of Entry**

The Zoning Official and/or his authorized representative may enter any building, structure, or premises at all reasonable times to make an inspection or enforce any provisions of this Ordinance. When entering a building, structure, or premise that is occupied, the Zoning Official and/or his authorized representative shall first identify himself, present proper credentials and request entry. If the building, structure, or premise is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the Zoning Official and/or his authorized representative shall have recourse to every remedy provided by law to secure entry. No person, owner or occupant of any building, structure, or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property after the Zoning Official and/or his authorized agent for the purpose of inspections pursuant to this Ordinance. Any person violating this section shall be prosecuted within the limits of the law as established by the Municipality of Orange Beach.

**12.0602 Violations** (rev. 01/03/2023)

- a. When a violation of this Ordinance is found, the Zoning Official, or his authorized representative, or the Municipality, or the Municipality on his behalf is authorized and directed to institute the following outlined procedure to end such violation.
  - 1. The Zoning Official declares that a violation of the Zoning Ordinance has occurred.
  - 2. The Zoning Official takes photographs of the zoning violation, makes a written record of the observed zoning violations, and places these in a public record file in the Orange Beach Department of Public Works.
  - 3. The Zoning Official issues an Ordinance Violation Notice to the owners of record of the building/property stating that the building/property is in violation of the Zoning Ordinance and listing the observed violation(s), and allowing them a thirty (30) day period from the date of the citation to correct the violation.
  - 4. If such violation has not been corrected within the thirty (30) day period, the Zoning Official or his designee may appear before a magistrate and file a complaint for violation of this Ordinance.
- b. For any and every violation of the provisions of this Ordinance, and for each and every day that such violation continues, said violation(s) shall be punishable as a misdemeanor by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment. Persons charged with such violation(s) may include:
  - 1. The owner, agent, lessee, tenant, contractor, or any other person using the land, building or premises where such violation has been committed or shall exist.
  - 2. Any person who knowingly commits or takes part or assists in such violation.

3. Any person who maintains any land, building or premises in which such violation shall exist.
- c. In addition to the criminal penalties and enforcement procedures above stated, the Building Official, or the Municipality, or the Municipality on his behalf, may institute any lawful civil action or proceeding to prevent, restrain or abate:
1. The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance or use of any building or structure; or
  2. The occupancy of such building, structure, land or water; or
  3. The illegal act, conduct, business, or use, in or about any building, structure, or premises.

## 12.07 AMENDMENTS

### 12.0701 Municipal Council (rev. 06/02/2009)

Zoning is a legislative act, adopted by the City Council to protect the public health, safety and welfare. Zoning is the chief tool by which the City implements its Comprehensive Plan. The City Council may, from time to time, amend, supplement or repeal regulations and provisions of this Ordinance as provided by law in the following way:

- a. On recommendation of the Planning Commission.
- b. The Planning Commission shall adhere to the following principles in making its recommendation for zoning and rezoning requests:
  1. Zoning should be consistent with the Comprehensive Plan, Future Land Use Map (FLUM) or adopted neighborhood plan.
  2. Zoning should allow for a reasonable use of the property.
  3. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.
  4. Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.
  5. Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersection of arterials and major collectors.
  6. The request should serve to protect and preserve places and areas of single-family residential neighborhoods.
  7. Zoning should satisfy a public need and not constitute a grant of special privilege to an individual owner; the request should not result in spot zoning.

8. The granting of a zoning request should result in equal treatment of similarly-situated properties.
9. The granting of a zoning request should not establish an undesirable precedent for other properties in the neighborhood or within other areas of the city.
10. Changes have occurred to conditions in the vicinity of the property indicating there is a basis for changing the originally-established zoning and/or development restrictions for the property.

#### **12.0702 Petition by Property Owners**

Whenever the owner and/or agent of record of any property desires a change in zoning classification, a change of the conditions or regulations of any district or any other provision of this Ordinance, he shall make written application to the Planning Commission on a form provided by the Municipality together with evidence that a deposit in an amount sufficient to cover cost of notices and processing for required public hearings thereon has been made with the Municipality. Said application shall be accompanied by any necessary information or documentation supporting such request.  
(rev. 03/21/2000)

No identical or substantially identical application for the rezoning of a specific parcel or parcels of land which has been denied by the City Council may be made for a period of one (1) year. (rev. 08/21/2007)

#### **12.0703 Planning Commission**

In response to an application for rezoning or when considering any other amendment to the Zoning Ordinance, the Planning Commission must hold a public hearing thereon and submit a written report to the City Council.

### **12.08 PLANNING COMMISSION PUBLIC HEARING AND NOTICE**

#### **12.0801 Planning Commission**

In response to an application for rezoning, or when considering any other amendment to the Zoning Ordinance, the Planning Commission must hold a public hearing thereon and submit a written report to the City Council.

#### **12.0802 Mailed Notice**

Notices of public hearing shall be sent to owners of property lying within five hundred (500) feet of the property on which the change in zoning is requested so that owners will receive these notices at least five (5) days before the date of the public hearing; owners of record shall be the names and addresses as recorded on the last approved tax rolls of Baldwin County. To accomplish this requirement, an application for rezoning must be filed with the Orange Beach Planning Department a minimum of thirty (30) days prior to the Public Hearing. If an apartment, townhome, or condominium complex is a neighboring or adjoining property to a proposed rezoning, the Municipality of Orange Beach will contact the owner's association or other managerial group in charge of the

complex, and it shall be the responsibility of this association or group to contact the owners of the individual units.

**12.0803 Posted Notice and Advertisement** (rev. 03/02/1999)

No Zoning Ordinance or Amendment thereto shall be passed without first complying with the publication requirements of §11 52 77 Code of Alabama 1975 as it exists now or as hereafter amended.

Additionally, anyone who desires a rezoning of property shall file a request for same with the Planning Department not less than thirty (30) days prior to a meeting at which the Planning Commission is requested to consider same.

**12.09 COUNCIL PUBLIC HEARING AND NOTICE**

Within thirty (30) days after receipt of a written report from the Planning Commission on any proposed amendment to the Zoning Ordinance, the City Council shall schedule a public hearing thereon and advertise the notice of public hearing along with the proposed amendment, as required by law. The City Council shall not hold its public hearing or take action on any proposed amendment until it has received a report on the proposed amendment from the Planning Commission. Regardless of the recommendation of the Planning Commission, the applicant has the right to a Public Hearing before the Municipal Council.

**12.10 PROCEDURE FOR ZONING NEWLY ANNEXED LAND** (rev. 03/21/2000)

Land newly annexed to the Municipality of Orange Beach shall be immediately placed into a municipal zoning district that is the most similarly analogous to the property within the City it abuts or its current use, whichever is most applicable. However, a property owner may contract with the municipality for a particular zoning classification of its/his/her property requested to be annexed. Upon annexation the Director of Community Development shall submit a *Notice/Request for Zoning* of said property to the Planning Commission with the Department's recommendation and/or any request of the property owner and/or any agreement for zoning with the City. Thereafter, the *Notice/Request for Zoning* shall follow all procedures pursuant to procedures for amendments to Zoning Ordinance.

Any change in the zoning district classification shall be consistent with the municipality's adopted Comprehensive Plan.

**12.11 REQUIREMENTS FOR OTHER PERMITS BEFORE CONSTRUCTION CAN COMMENCE**

Nothing in this Ordinance shall preclude or supersede the responsibility of the property owner/developer from obtaining all applicable permits from other local, state, or federal agencies for the desired construction. The Zoning Official will advise the property owner/developer of those permits which he knows are required, but this does not relieve the property owner/developer of any responsibility to obtain all relevant and applicable permits regardless of the advice of the Zoning Official.