

ORDINANCE NO. 635

AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 63, “GENERAL AND ADMINISTRATIVE PROVISIONS”, ARTICLE III, “DEVELOPMENT REVIEW PROCEDURES”, SECTION 63-31 “PLANNING AND ZONING COMMISSION ESTABLISHED; POWERS AND DUTIES” AND SECTION 63-34 “BOARD OF ADJUSTMENT”, TO MODIFY THE DATE REQUIREMENTS REGARDING APPOINTMENTS TO THE BOARDS, TO CLARIFY WHO ADMINISTERS OATHS, QUORUM REQUIREMENTS, REMOVAL FROM OFFICE AND REQUIRED TIME PERIODS BETWEEN SUBMITTING APPLICATIONS; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Ocean Ridge, Florida (the “Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission wishes to modify the date requirements regarding appointments to the Planning and Zoning Commission and Board of Adjustment, the administration of oaths, quorum requirements, removal from office and required time periods between submitting applications; and

WHEREAS, the Town Commission has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:

SECTION 1 – Findings of Fact: The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

SECTION 2 – Amendment: Chapter 63 “General and Administrative Provisions”, Article III “Development Review Procedures”, Section 63-31 “Planning and zoning commission established; powers and duties” is hereby amended as follows:

Sec. 63-31. - Planning and zoning commission established; powers and duties.

- (a) *Establishment and composition.* A planning and zoning commission for the town is hereby created and established, consisting of five members appointed by the town commission. Each member of the planning and zoning commission shall be appointed from the town and must be a resident and registered voter of the town. The planning and zoning commission shall also have two alternate members appointed by the town commission in a like manner. Alternate members may act in the temporary absence or disability of any regular member or when a

regular member is otherwise disqualified in a particular case. Alternate members shall be selected for planning and zoning commission service on a rotational basis if both are able, willing and ready to serve in the hearing and disposition of a given case.

(b) *Terms of office; removal from office; vacancies.*

(1) The basic term of office for members, which includes alternates, of the planning and zoning commission shall be three years; ~~provided that each member serving at the time of adoption of this section shall complete his term as originally established. Group A shall have two regular members. Group B shall have three regular members. Group C shall have two alternate members.~~

(2) The regular term of a members of the planning and zoning commission shall commence on May 1 and shall expire on April 30 of the third year following appointment. The expiration terms of the current members of the planning and zoning commission shall be extended, as necessary, to the following April 30. ~~shall hold office as indicated in subsection (b)(1) of this section until the Monday immediately preceding the second Tuesday of February of the year each member's term expires. As the initial term of each member expires, the new term of each appointed member shall be three years. Any member who serves for a full three-year term may be eligible for reappointment. Alternate members shall be appointed for a one-year term only. Each member shall hold office until his/her successor is duly appointed and qualified. Any member appointed to serve in lieu of any member on account of death, resignation, removal or disability of such member shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter. Members shall serve at the pleasure of the town commission, which may remove any member without cause by majority vote of the entire town commission.~~

(3) Should any member of the planning and zoning commission move from the incorporated limits of the town, the member shall become disqualified and a new member shall be appointed from the residents and registered voters of the town.

(4) Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.

(5) Members of the planning and zoning commission shall not hold any elected public office.

(c) *Officers; meetings and rules of procedure; employees and salaries; minutes to be public record.*

(1) The planning and zoning commission shall elect a chairman and a vice-chairman from among its members. The town clerk or his designee shall take all minutes and perform clerical duties necessary to the functioning of the planning and zoning commission.

(2) The planning and zoning commission shall have regular meetings, to be determined by the chairman or three members of the commission. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the planning and zoning commission shall be open to the public, as prescribed by law.

- (3) The planning and zoning commission may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees and such other expenses as are necessary to conduct the work of the commission.
 - (4) ~~The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.~~ The planning and zoning commission shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or abstaining, indicating such fact. No member shall abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112. The records of the planning and zoning commission shall be filed in the office of the town clerk and shall be a public record.
 - (5) The town clerk or his/her designated deputy clerk may administer oaths.
 - (6) No action shall be taken on any application unless a quorum of three members is present, and action shall be taken only upon a concurring vote of a minimum of three members present and voting. No member shall be permitted to abstain from voting unless he/she has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- (d) *Appropriations and expenditures.* The town commission may make such appropriations for salaries, fees and expenses as necessary in the conduct of the work of the planning and zoning commission and establish a schedule of fees to be charged by the planning and zoning commission. The planning and zoning commission shall have the authority to expend all sums so appropriated and other sums made available for its use from fees, gifts, state or federal grants, state or federal loans and other sources when acceptance of such loans, etc., is approved by the town commission.
- (e) *Authority; functions; powers and duties generally.* The planning and zoning commission shall have the authority and duty to:
- (1) Propose or review applications for amendments to the comprehensive plan, including the annual monitoring and evaluation of the plan in accordance with state statutes and rules.
 - (2) Hear applications for district boundary changes (rezoning).
 - (3) Hear applications for amendment to the text of this land development code.
 - (4) Hear applications for major development site plan and special exception applications, including planned residential development applications.
 - (5) Hear applications for approval of subdivision plats.
 - (6) Conduct such reviews and provide such recommendations or interpretations as are requested of it from time to time by the town commission.

SECTION 3 – Amendment: Chapter 63 “General and Administrative Provisions”, Article III “Development Review Procedures”, Section 63-34 “Board of adjustment” is hereby amended as follows:

Sec. 63-34. - Board of adjustment.

- (a) *Establishment and composition.* A board of adjustment for the town is hereby created and established, consisting of five members appointed by the town commission. Each member of the board of adjustment shall be appointed from the town and must be a resident and registered voter of the town. The board of adjustment shall also have two alternate members appointed by the town commission in a like manner. Alternate members may act in the temporary absence or disability of any regular member or when a regular member is otherwise disqualified in a particular case. Alternate members shall be selected for board of adjustment service on a rotational basis if both are able, willing and ready to serve in the hearing and disposition of a given case.
- (b) *Terms of office; removal from office; vacancies.*
 - (1) The basic term of office for members, which includes alternates, of the board of adjustment shall be three years; ~~provided that each member serving at the time of adoption of this section shall complete his term as originally established. Group A shall have two regular members. Group B shall have three regular members. Group C shall have two alternate members.~~
 - (2) The regular term of a members of the board of adjustment shall commence on May 1 and shall expire on April 30 of the third year following appointment. The expiration terms of the current members of the board of adjustment shall be extended, as necessary, to the following April 30. ~~shall hold office as indicated in subsection (b)(1) of this section until the Monday immediately preceding the second Tuesday of February of the year each member's term expires. As the initial term of each member expires, the new term of each appointed member shall be three years.~~ Any member who serves for a full three-year term may be eligible for reappointment for more than one successive term. Each member shall hold office until his successor is duly appointed and qualified. Any member appointed to serve in lieu of any member on account of death, resignation, removal or disability of such member shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter. Members shall serve at the pleasure of the town commission, which may remove any member without cause by majority vote of the entire town commission.
 - (3) Should any member of the board of adjustment move from the incorporated limits of the town, the member shall become disqualified and a new member shall be appointed from the residents and registered voters of the town.
 - (4) Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.
 - (5) Members of the board of adjustment shall not hold any elected public office.

- ~~(6) — Members of the board of adjustment may be removed from office by the town commission for cause upon written charges and after public hearing. Written charges may be submitted to the town clerk by any one member of the town commission. The grounds for removal shall be limited to the following and must be contained in the written charges: malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, and conviction of a felony involving moral turpitude. After receipt of the written charges, the town clerk shall at once serve upon the board member charged a certified copy of the written charges. Within five days after receipt of the written charges, the board member charged may file with the clerk a defensive statement. As soon as the clerk receives the defensive statement or, if no defensive statement is received, 15 days after the clerk's service of the written charges to the board member charged, the clerk is to schedule the consideration of removal for public hearing with the town commission. Publication of notice of the time, place and purpose of such hearing shall be made once in a newspaper of general circulation in the area, with such publication to be at least five days prior to the hearing. A vote of four out of five members of the town commission is required to remove a member of the board of adjustment.~~
- (c) *Officers, meetings and rules of procedure, employees and salaries; minutes to be public record.*
- (1) The board of adjustment shall elect a chairman and a vice-chairman from among its members. The town clerk or his designee shall take all minutes and perform clerical duties necessary to the functioning of the board.
 - (2) The board of adjustment shall meet at regular intervals to be determined by it, and at such other times as the chairman or town commission may determine. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record.
 - (3) The board of adjustment may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees and such other expenses as are necessary to conduct the work of the board.
 - (4) ~~The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.~~ The board of adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or abstaining, indicating such fact. No member shall abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112. The records of the board of adjustment shall be filed in the office of the town clerk and shall be a public record.
- (d) *Appropriations and expenditures.* The town commission may make such appropriations for salaries, fees and expenses as necessary in the conduct of the work of the board of adjustment and establish a schedule of fees to be charged by the board of adjustment. The board of adjustment has the authority to expend all sums so appropriated and other sums made available for its use from fees, gifts, state or federal grants, state or federal loans and other sources when acceptance of such loans, etc., is approved by the town commission.

- (e) *Authority, functions, powers and duties.* The board of adjustment shall have the following powers and duties:
- (1) *Variances.* The board of adjustment shall authorize upon appeal such variance from the terms of this land development code pursuant to the standards and procedures delineated in section 63-73. This shall include any alterations to nonconforming or grandfathered uses or structures.
 - (2) *Appeals from decisions of administrative official.* The provisions of section 63-91 shall apply for appealing decisions of an administrative official.
- (f) *Application procedures.*
- (1) All hearings before the board of adjustment shall be initiated by filing with the town an application, on forms prescribed by the town, executed and sworn to by the owners of at least 75 percent of the property described in the application, or by the tenants, with the owner's written, sworn-to consent, or by duly authorized agents, evidenced by a written power of attorney if not a member of the Florida Bar, or by contract purchasers, or by the administrative official, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the decision or determination.
 - (2) All properties described in one application must be contiguous and immediately adjacent to one another, and the administrative official may require more than one application if the property concerned contains more than ten acres, or if the fee paid for one application would not equal the cost of processing the application.
 - ~~(3) Upon the denial of an application, in whole or in part, a period of one year must Only applications which the board of adjustment is authorized to consider and act upon shall be accepted for filing, and no application shall be considered or construed to be filed until the required fee has been paid.~~
- (g) *Notice and hearing prerequisite to action.* The provisions of section 63-32 shall also apply to the board of adjustment.
- (h) *Withdrawal, denial, continuance or postponement of application.*
- (1) Upon the denial of an application, in whole or in part, a period of one year must run prior to the filing of a subsequent application affecting the same property or any portion thereof that is requesting substantially the same relief.
 - (2) Upon the withdrawal of an application, in whole or in part, a period of six months must run prior to the filing of a subsequent application affecting the same property or any portion thereof that is requesting substantially the same relief, unless, however, the decision of the board is without prejudice or permits the withdrawal without prejudice; and provided that such limitations shall not apply to applications filed by the administrative official; and further provided that either period of limitation shall be increased to a two-year waiting period if such an application, in whole or in part, has been twice or more denied or withdrawn.
 - (3) An application may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in a manner and on a form prescribed by the town, and filed with the town within the two-week period subsequent to the deadline for filing an application; otherwise all such requests for withdrawal shall

be with prejudice. No application may be withdrawn after final action has been taken. When an application is withdrawn without prejudice, the time limitations for reapplication provided in this section shall not apply.

- (4) An application may be continued or postponed at the request of the applicant or the board by majority vote, but the public hearing shall be concluded within 60 days after the date of the first public hearing.

(i) *Meetings and procedures.*

- (1) All meetings of the board of adjustment shall be open to the public, as provided by law.
- (2) The administrative official or his designee shall attend all meetings and be permitted to propound questions and give evidence and make recommendations.
- (3) The town clerk or his designated deputy clerk may administer oaths, ~~and the chairman or acting chairman may compel the attendance of witnesses in the same manner as prescribed in the circuit court.~~
- (4) No action shall be taken on any application unless a quorum of three members is present, and action shall be taken only upon a majority concurring vote of all a minimum of three members present and voting. No member shall be permitted to abstain from voting unless he/she has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- (5) Minutes will be kept of all public meetings and proceedings and shall include and state the vote of each member on each question, and the motion shall state the reason upon which it is made, such reason being based upon the prescribed guides and standards of good zoning and planning principles. If a member is absent or abstains from voting, the minutes shall so indicate.
- (6) The board shall keep accurate records of its public hearings, which shall be filed, together with its minutes and resolutions, with the town, and the records shall be open for public inspection at reasonable times and hours.
- (7) The administrative official shall furnish from the town such staff as may be necessary to assist and advise the board in the fulfillment of its duties, and is authorized to retain a qualified reporter or clerk to record and transcribe the public proceedings of the board of adjustment.
- (8) All decisions of the board of adjustment shall be by motion. The decision of the board of adjustment shall be final as to administrative action.
- (9) The board of adjustment or any of its members may inspect the premises, site or area under consideration.

- (j) *Staying of work on premises.* When an appeal from the decision of the administrative official or any administrative official has been taken and filed with the board of adjustment, all proceedings and work on the premises concerning which the decision was made shall be stayed.

SECTION 4 - Codification: The ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

SECTION 5 - Repeal of Conflicting Ordinances: All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

SECTION 6 - Severability: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 7 - Effective Date: This Ordinance shall become effective immediately upon adoption.

FIRST READING this 6th day of September, 2018.

SECOND AND FINAL READING this 1st day of October, 2018.

Commissioner de Haseth offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner Bessler and upon being put to a vote, the vote was as follows:

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| JAMES A. BONFIGLIO, Mayor | <u>Aye</u> |
| DON MAGRUDER, Vice Mayor | <u>Aye</u> |
| STEVE COZ, Commissioner | <u>Aye</u> |
| KRISTINE DE HASETH, Commissioner | <u>Aye</u> |
| PHIL BESSLER, Commissioner | <u>Aye</u> |

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 1st day of October, 2018.

TOWN OF OCEAN RIDGE, FLORIDA

BY: [Signature]
JAMES A. BONFIGLIO, MAYOR

ATTEST: [Signature]
TOWN CLERK