

ARTICLE V

ADMINISTRATION AND ENFORCEMENT

SECTION 1. Administration

It shall be the duty of the Town Council to enforce the provisions of this Ordinance and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Ordinance. It shall also be the duty of all officers and employees of the Town to assist the Town Council by reporting any apparent violation in new construction, reconstruction, or land uses. The methods for administering this Ordinance, and the procedure to be followed in applying for a permit shall be as follows:

1.1 Building Permits

No building shall be erected, constructed, altered, moved, converted, extended, or enlarged, without the owner first obtaining a building permit from the Town Council. No such permit shall be issued until the applicant obtains a certificate of zoning compliance from the Town Council of these regulations in the Town of Houston.

1.2 Violation and Penalties

In case any building is erected, constructed, reconstructed, altered, repaired or converted, or any building, or land used in violation of this Ordinance, the Town Council is authorized and directed to institute any appropriate action to put an end to such violation.

Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$100.00 or be imprisoned not more than 30 days, or both, and each and every day such violation shall continue shall be deemed- a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent person, or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.

SECTION 2. Establishment of Board of Adjustment

A Board of Adjustment is hereby established and shall consist of three residents of the Town of Houston and appointed by the Town Council. The Board shall adopt rules for the conduct of its business, such rules to be made available to the public. For the conduct of any hearing a quorum shall

not be less than three members and an affirmative vote of the majority of the Board shall be required to overrule any decision, ruling or determination of the official charged with enforcement of this ordinance, or to approve any variance.

All actions or decisions of the Board shall be taken by resolution, in which at least a majority of members must concur. Each resolution shall contain a statement of the grounds and findings forming the basis of such action or decision, and the full text of said resolution and record of member's votes shall be incorporated into the minutes of said Board. No appeal requesting the same relief in regard to the same property shall be received or heard by the Board for a period of one year following the date of said resolution, except that this limitation shall not affect the right of the Board to grant a rehearing as provided in the Board's Rules of Procedure.

2.1 Duties, Powers, and Responsibility of the Board

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administrative enforcement of this Ordinance.
2. To authorize upon appeal in specific cases such variance from the specific terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions, a strict application of the provisions of this Ordinance will result in peculiar and exceptional practical difficulties or exceptional and undue hardship, provided that the spirit of the Comprehensive Plan and Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done as hereinafter provided.
3. To hear and decide applications for the interpretation of this Ordinance or the Zoning District Map where there is any uncertainty as to the location of a district boundary.

2.2 Procedures

1. Variances

Applications for variance may be made by any property owner, tenant, or governmental official. Such application shall be made in accordance with rules adopted by the Board. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board who shall place the matter on the docket, advertise a public hearing thereon and file written notice of such hearing with the parties of interest. A similar notice shall be posted on the property under consideration. The Secretary of the Board shall also transmit a copy of the application to the Town Council which may send a recommendation to the Board or appear as a party at the hearing.

2. Appeals

Appeals to the Board of Adjustment may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer based upon or made in the course of the administration or enforcement of the provisions of the zoning regulations. Appeals to the Board of Adjustment may be taken by any officer of the Town affected by the grant or refusal of a certificate of zoning compliance or by other decision of an administrative officer based on or made in the course of the administration or enforcement of the provisions of the zoning regulations. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Secretary of the Board. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Secretary of the Board certifies to the Board, by reason of fact stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed except by a restraining order granted by the Board or by a court of record, on application and on notice to the Secretary of the Board and for good cause shown.

3. General

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties of interest and decide the same within sixty days. Public notice of the hearing shall consist of publication of a legal notice at least 15 days prior to the hearing in a newspaper of general circulation in the town. Such notice shall specify the time, place, and nature of the hearing. The hearing shall be held not less than five days nor more than ten days after final publication. The Town must notify all surrounding property owners within two-hundred (200) feet of said property for the meeting location, time, and place not later than fifteen (15) days prior to the actual meeting date. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from.

The Board shall designate a secretary to keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The Chairman of the Board, or in his absence the Vice Chairman, may administer oaths and compel the attendance of witnesses. All testimony shall be given under oath or affirmation.

2.3 Variances

Subject to the provisions of Section 3 of this Article, the Board shall have the power to grant the following variances:

1. A variance in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases when and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific

piece of property, at the time of the enactment of such regulation or restriction, or by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of each regulation or restriction, would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such grant or variance shall comply as nearly as possible, in every respect with the spirit, intent, and purpose of the comprehensive plan; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.

2. No variance shall be authorized by the Board unless it finds:
 1. That the strict application of the Ordinance would produce undue hardship.
 2. That such hardship is not shared generally by other properties in the same zoning district and same vicinity.
 3. That the authorization of such variance will not be substantial detriment to the public good or to adjacent property and that the character of the district will not be changed by the granting of the variance.
3. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.
 1. An exception to the height regulation in an Industrial District.
 2. Exceptions to parking and loading requirements as follows:
 - a) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article IV where practical difficulties, including the acquisition of property, or undue hardship are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.
 - b) Waiver or reduction of the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

- c) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
 - d) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems or access, or size of lot make impractical the provision of required loading space.
4. In case of uncertainty, a determination of the district classification of any use not specifically named in these regulations, provided, however, such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified.

2.4 Conditions Attached to Approvals

Where variances are permitted in these regulations they may be limited by such conditions as the case may require, including but not limited to, the imposition of any of the following specifications:

1. Amount, direction, and location of outside lighting.
2. Amount and location of off-street parking and loading space.
3. Type of construction and materials.
4. Paving, shrubbery, landscaping, or ornamental or screening fences, walls or hedges.
5. Time of day or night for operating.
6. Control or elimination of smoke, dust, gas, noise or vibration caused by operations.
7. Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.
8. Such other conditions as are deemed necessary by the Board of Adjustment.

2.5 Amendment of variance

Procedure for amendment of a variance already approved, or a change of conditions attached to an approval, shall be the same as for a new application except that where the Secretary of the Board determines the change to be minor relative to the original approval he may transmit the same to the Board with the original record without requiring that a new application be filed.

- 2.6 Appeals to Courts
Appeals to courts from a decision of the Board may be filed in the manner prescribed by law.

SECTION 3. Changes and Amendments

The Town Council may, from time to time, amend, supplement, change, or modify the ordinance, the number, shape, area, or boundaries of the districts or the regulations herein established. Any such amendment may be

initiated by resolution of the Town Council, or by petition of any property owner addressed to the Town Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Town Council.

- 3.1 All proposed amendments, whether an amendment in text or a modification in districts, shall be first submitted to the Town Council in writing at least fifteen days in advance of the next regular meeting of the Town Council. The Mayor shall then schedule a review of the proposal at the next Town Council meeting, at which time consideration shall be given to the relation of the proposed change to the general purpose and intent of the ordinance and to the Comprehensive Plan, and the facts existing in the vicinity of the proposed change to the general purpose and intent of the ordinance and to the Comprehensive Plan, and the facts existing in the vicinity of the proposed change which may warrant a change to the district boundaries or to the rules and regulations of the ordinance.

- 3.2 Review of Amendments

No amendment, supplement, change or modification or repeal by the Town Council of Houston shall become effective until after a Public Hearing has been held, at which time all interested parties and citizens shall have an opportunity to be heard.

Following its Public Hearing the Town Council may make appropriate changes or corrections in an ordinance or proposed amendment: provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice as required in Article V, Section 3.1.

- 3.3 Reapplication for Amendment

No application for an amendment, supplement, change or modification or repeal requesting the same relief in regard to the same property shall be received by the Town Council for a period of one year following the decision.

SECTION 4. Requirements to obtain a Building Permit

- 4.1 Purpose

The nature of the use, the importance of its relationship to the various districts and its possible impact not only on neighboring properties, but the entire community, make these requirements necessary for new construction in all districts.

Building Permits are subject to the Town of Houston Building Permit Fee and Site Inspection Fees stated in Chapter 175. Additional fees may include the need for professional consultant fees depending on the nature of the application.

4.2 Meeting

A meeting of the Houston Town Council is required to obtain a Building Permit for new structure(s) deemed necessary by the Building Code Official. This meeting will be scheduled for the first Thursday of each month, prior to the regular business meeting of the Houston Town Council. Reviewed applications ready for approval will be scheduled for the next eligible Town Council meeting in accordance with FOIA regulations. No meeting will be necessary, but a building permit is required for the following:

- A. Residential and Residential Modular district(s);
 - 1. Single family dwelling, attached and detached garages, sheds, additions, renovations, decks, patios or swimming pools.
 - 2. All remodeling to include window replacement.
- B. Commercial and Industrial district(s);
 - 1. Additions or Renovations to existing buildings not requiring site plan review.

No meeting will be necessary, but a building permit is required for fences in all district(s).

Amended (06/02/2016)

4.3 Permit Requirements

The following requirements must be provided when applicable to the Town of Houston with the request for a building permit, or meeting. The Town will retain (1) one copy for its records.

- 1. Ownership information; name, address, phone number(s)
- 2. Well Permit
- 3. Septic Permit
- 4. Kent Conservation (if building exceeds 2500 square feet)
- 5. Plot Plans (3) copies shall include:
 - Shape and dimension of the lot
 - Exact size/location of any proposed structures, fence, etc.
 - Dimensions of all yards in relation to the building & distance
 - Proposed and existing uses for all structures
 - Location of proposed and existing water/sewer services
 - Location of proposed and existing sidewalks
- 6. Construction Plans (3) copies; must be sealed if project is in a commercial, multi-family or industrial district
- 7. Fire Marshall Approval (commercial or industrial)
- 8. Department of Transportation Approval (if on state maintained roadway)