

Article 18 Administration

Section 18.1 Administration, Interpretation and Enforcement

18.1.1 The duty of administering and enforcing the provisions of these zoning ordinances is hereby conferred upon the Zoning Administrator.

18.1.2 The Zoning Administrator is authorized and empowered to administer and enforce the provisions of these zoning ordinances to include receiving applications, inspecting sites, and issuing Site Plan Approval for projects and uses and structures which are in conformance with the provisions of these zoning ordinances.

18.1.3 The Zoning Administrator shall keep records of all permits and approvals issued, including 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.

18.1.4 Where the exact location of a boundary cannot be determined by the methods described in *Section 12.10: Rules for Determining Zoning District Boundaries*, the Zoning Administrator shall interpret the map and render a decision. Any such decision may be appealed to the Board of Adjustment.

18.1.5 In any case where a requested use is not specifically provided, the Zoning Administrator shall determine the appropriate zoning classification by reference to the most clearly analogous use or uses that are specifically provided.

Section 18.2 Site Plan Approvals

18.2.1 *Authorization.* A Site Plan Approval shall be obtained from the Zoning Administrator prior to the commencement of development and issuance of any associated building permits.

18.2.2 *Application procedure.*

(a) The Zoning Administrator shall receive the application for a Site Plan Approval upon determination that it complies with all applicable submission requirements. A Site Plan Approval may be submitted concurrently with a request for rezoning.

(b) A Site Plan Approval will be issued either administratively by the Zoning Administrator or by the Baldwin County Planning Commission at a regularly scheduled meeting as provided herein.

(c) Where appropriate, the Zoning Administrator shall circulate the application to the Building Official, County Engineer, and/or Coastal Program Director for review and comment.

(d) Administrative Site Plan Approval shall be issued or denied within 10 business days or otherwise the Site Plan Approval shall be deemed to be deemed automatically granted. Commission Site Plan Approvals shall be issued or denied at the Planning Commission meeting where the Site Plan Approval application is considered. A Commission Site Plan Approval may be issued contingent on changes requested by the Planning Commission pursuant to 18.9.6. In this case, the Applicant shall submit the amended Site Plan to the Zoning Administrator for final issuance of the Site Plan Approval.

18.2.3 Application submittal.

(a) *Application.* The Site Plan Approval Application shall be submitted via the Baldwin County Commission Online Permitting Portal.

(b) *Application Submittal Documents.* Each application for Site Plan Approval shall be accompanied by the following documents as applicable:

Minor Projects:

- an accurate site plan drawn to scale showing:
 - the actual shape, dimensions and size of the lot to be built upon;
 - the size, shape, height, floor area and location of the buildings to be erected;
 - dimensions and locations of existing buildings;
 - width of front, side and rear yards;
 - highway construction setback;
 - existing and proposed parking;
 - ingress to, and egress from, the site; and
- such other information as may be reasonably requested to determine compliance with these zoning ordinances including but not limited:
 - access permit from Baldwin County Highway Department or ALDOT
 - water release
 - sewer or septic tank release
 - floor plan(s) (or similar means of determining interior use/occupancy) and building elevations
 - erosion control plan,
 - agent authorization form (if applicable)
 - US Fish and Wildlife Service Permit

- USACE Permit
- ADEM Permit
- Any other documents or information necessary to determine compliance with the zoning ordinance.

Major Projects:

- In addition to the items listed above the following information shall be provided for Major Project, including but not limited to:
 - commercial turnout permit from Baldwin County Highway Department or ALDOT
 - landscaping plan (with applicable landscape buffers),
 - approved stormwater management plan, and
 - utilities plan
 - lighting plan
 - any other documents or information necessary to determine compliance with the zoning ordinance.

All projects requiring a Commission Site Plan Approval must be accompanied by a narrative response to the standards for approval in 18.9.5.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with ordinances of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for Site Plan Approval, and the Site Plan Approval may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for a Site Plan Approval shall be required to pay an application fee according to the current schedule of fees established by the County Commission for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

18.2.4 Conditions and restrictions on approval. A Site Plan Approval shall be valid for the issuance of a building permit for 180 days after issuance. After that time, a new Site Plan Approval must be obtained. A record of the application and site plan shall be kept in the files of the Zoning Administrator for a period of not less than 7 years.

18.2.5 Revocation of Site Plan Approval. The Zoning Administrator may revoke a Site Plan Approval issued in a case where there has been a false statement or misrepresentation in the application or on the site plan for which the Approval was issued or if after a documented warning has been issued the applicant has failed to comply with the requirements of these zoning ordinances. Revocation of the Site Plan Approval shall also cause suspension of the building permit until such

time as in the judgment of the Zoning Administrator, the applicant is in compliance with the requirements of these zoning ordinances.

18.2.6 *Right of appeal.* The applicant may appeal the denial of the Administrative Site Plan Approval to the Board of Adjustments in writing within twenty (20) calendar days after the rejection of the application.

Section 18.3 Appeals to the Board of Adjustment

18.3.1 The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning ordinances.

18.3.2 Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning ordinances. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

18.3.3 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken 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 or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application and notice to the officer from whom the appeal is taken and on due cause shown.

Section 18.4 Variances

18.4.1 *Authorization.* The Board of Adjustment shall authorize upon application in specific cases such variance from the terms of these zoning ordinances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these zoning ordinances will result in unnecessary hardship and so that the spirit of these zoning ordinances shall be observed and substantial justice done; provided, however, that the foregoing provisions shall not authorize the Board of Adjustment to approve a use or structure in a zoning district restricted against such use or structure.

18.4.2 *Standards for approval.* A variance may be authorized based upon the existence of the following conditions:

- (a) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning ordinances.
- (b) Exceptional topographic conditions or other extraordinary situation or condition of a specific piece of property.
- (c) That the granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.
- (d) That the granting of the application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.
- (e) Any owner of record of real property upon the date of the adoption by the Baldwin County Commission of the zoning ordinances for the planning district in which said property is located shall automatically obtain a variance, if needed, for a single family dwelling notwithstanding the type of dwelling to be placed or constructed on the property.

Section 18.5 Hearing of Appeals and Variances

18.5.1 Application procedure.

- (a) Any appeal or application for variance must be submitted to the Planning & Zoning Department at least 15 days prior to the regularly scheduled meeting of the Board of Adjustment.
- (b) The Zoning Administrator shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Board of Adjustment.
- (c) The Zoning Administrator shall, 5 days before the scheduled public hearing by the Board of Adjustment, provide notice of such hearing by certified mail to adjacent property owners as their names appear in the county tax records.
- (d) The Board of Adjustment shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing

if it is determined that action must be deferred to allow for additional input and review.

(e) Any application may be withdrawn prior to action thereon by the Board of Adjustment at the discretion of the applicant initiating the request upon written notice to the Zoning Administrator.

18.5.2 Submission requirements. No appeal or application for variance shall be considered complete until all of the following has been submitted:

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Administrator.

(b) *Plans and specifications.* Each application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application.

(d) *Application fee.* The applicant shall be required to pay an application fee according to the current schedule of fees established by the County Commission for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application; however, where an applicant is successful in reversing a decision of the Zoning Administrator the fee shall be returned to the applicant.

(e) *Association approval.* Prior approval from active neighborhood associations, boards or committees, if applicable, shall accompany all Board of Adjustment applications and requests.

Section 18.6 Special Exceptions

18.6.1 Authorization. The Board of Adjustment may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted as a special exception in a particular zoning district; however, the county reserves full authority to deny any request for a special exception, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.

18.6.2 Application procedure.

(a) An application for special exception approval must be submitted to the Planning & Zoning Department at least 15 days prior to the regularly scheduled meeting of the Board of Adjustment.

(b) The Zoning Administrator shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Board of Adjustment.

(c) The Zoning Administrator shall, 5 days before the scheduled public hearing by the Board of Adjustment, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed special exception as their names appear in the county tax records.

(d) The Board of Adjustment shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.

(e) Any petition for special exception approval may be withdrawn prior to action thereon by the Board of Adjustment at the discretion of the applicant initiating the request upon written notice to the Zoning Administrator.

18.6.3 *Submission requirements.* No request for special exception approval shall be considered complete until all of the following has been submitted:

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Coordinator.

(b) *Plans and specifications.* Each application for special exception approval shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with these Zoning Ordinances including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County

Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for a special exception shall be required to pay an application fee according to the current schedule of fees established by the County Commission for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(e) *Association approval.* Prior approval from active neighborhood associations, boards or committees, if applicable, shall accompany all Board of Adjustment applications and requests.

18.6.4 Standards for approval. A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

(a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Baldwin County Master Plan, these ordinances, or any other official plan, program, map or ordinance of Baldwin County.

(b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.

(c) The proposed use shall not unduly decrease the value of neighboring property.

(d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

18.6.5 Conditions and restrictions on approval. In approving a special exception, the Board of Adjustment may impose conditions and restrictions upon the property benefited by the special exception as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such special exception upon the property in the neighborhood, and to carry out the general purpose and intent of the ordinances. In approving any special exception, the Board of Adjustment may specify the period of time for which such approval is valid for the commencement of the proposed special exception. The Board of Adjustment may, upon written request, grant extensions to such time allotments not exceeding 6 months each without notice or hearing. Failure to comply with any such condition or restriction imposed by the Board of Adjustment shall constitute a violation of these ordinances. Those special exceptions which the Board of

Adjustment approves subject to conditions shall have specified by the Board of Adjustment the time allotted to satisfy such conditions.

Section 18.7 Decisions of the Board of Adjustment

In exercising its authority, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to act.

Section 18.8 Appeal from Decision of the Board of Adjustment

Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within 15 days thereafter, appeal the final judgment to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court where the appeal is taken, and the action of such court shall be tried de novo.

Section 18.9 Commission Site Plan Approval

Purpose. The purpose of Commission site plan approval is to allow the proper integration of uses into a community and zoning district. The Commission site plan approval process recognizes that certain uses, though technically permitted by zoning, are only suitable under certain conditions and at appropriate locations. Certain uses require special consideration so that the use may be properly located with respect to the objectives of this chapter and their effect on surrounding properties.

18.9.1 Authorization. The Planning Commission may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted by the Site Plan Approval process in a particular zoning district; however, the county reserves full authority to deny any request for Site Plan Approval, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.

18.9.2 Applicable Uses. In addition to the uses specified for the individual zoning designations, a Commission Site Plan Approval is required for all development which meets the following criteria:

- (a) All multiple unit developments;
- (b) Non-residential projects involving a combined total building square footage of 5,000 square feet or more;
- (c) Non-residential development within 200 feet of property that is either zoned or used as residential;
- (d) Non-residential development where more than 30% of the lot (excluding the building) is impervious;
- (e) All changes to existing structures, other than single family residences, that increase the gross floor area by thirty percent (30%) or more;
- (f) All changes of use on non-residential properties, unless proposed use would be permitted with an administrative approval.

18.9.3 *Application procedure.*

- (a) An application for Commission Site Plan Approval must be submitted to the Planning & Zoning Department at least 30 days prior to the regularly scheduled meeting of the Planning Commission.
- (b) The Zoning Administrator shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Planning Commission.
- (c) The Zoning Administrator shall, 5 days before the scheduled public hearing by the Planning Commission, provide notice of such hearing by certified mail to the owners of property adjacent to the property which is subject to the approval as their names appear in the county tax records.

When a Commission site plan approval involves property that is within $\frac{1}{4}$ mile of an adjacent municipality, the Planning Commission shall give notice to the adjacent municipality by mail or electronic transmission to the clerk of the adjacent municipality at least 10 business days prior to any hearing. Such adjacent municipality may appear and be heard.

- (d) The Planning Commission shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.
- (e) Any petition for Commission Site Plan Approval may be withdrawn prior to action thereon by the Planning Commission at the discretion of

the applicant initiating the request upon written notice to the Zoning Administrator.

18.9.4 Submission requirements. No request for Commission Site Plan Approval shall be considered complete until all of the following has been submitted:

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Administrator.

(b) *Application Submittal Documents.* Each application for site plan approval shall be accompanied by documents as applicable:

- an accurate site plan drawn to scale showing:
 - the actual shape, dimensions and size of the lot to be built upon;
 - the size, shape, height, floor area and location of the buildings to be erected;
 - dimensions and locations of existing buildings;
 - width of front, side and rear yards;
 - highway construction setback
 - existing and proposed parking;
 - ingress to, and egress from, the site; and
- such other information as may be reasonably requested to determine compliance with these zoning ordinances including but not limited:
 - landscaping plan (with applicable landscape buffers),
 - erosion control plan,
 - approved stormwater management plan, and
 - utilities plan.
 - Covenant/Restrictions Document: Applicant shall submit a signed document indicating that no covenants or deed restrictions will be violated by the proposed use.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for Commission Site Plan Approval shall be required to pay an application fee according to the current schedule of fees established by the County Commission for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

18.9.5 *Standards for approval.* A Commission Site Plan Approval may be granted by the Planning Commission only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

- (a) The proposed use and accompanying site plan conform to the requirements of the Zoning Ordinance.
- (b) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Baldwin County Master Plan, these ordinances, or any other official plan, program, map or ordinance of Baldwin County.
- (c) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.
- (d) The proposed use shall not unduly decrease the value of neighboring property.
- (e) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

18.9.6 *Conditions and restrictions on approval.* In approving a site plan, the Planning Commission may impose conditions and restrictions upon the property benefited by the site plan approval as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such site plan approval upon the property in the neighborhood, and to carry out the general purpose and intent of the ordinances. These conditions may include but are not limited to increasing the required lot size or yard dimensions; controlling the location and number of vehicle access points; increasing the number of off-street parking and loading spaces required; limiting the number, size and location of signs; and required fencing, screening, lighting, landscaping or other facilities to protect adjacent or nearby property.

In approving any site plan, the Planning Commission may specify a period of time different than the 180-day default time period from Section 18.2.4 for the commencement (issuance of a building permit) of the proposed use. Failure to comply with any such condition or restriction imposed by the Planning Commission shall constitute a violation of these ordinances. Those site plans which the Planning Commission approves subject to conditions shall have 30 days to submit an amended site plan incorporating the required conditions, unless a longer time frame is specified by the Planning Commission.

18.9.7 *Right of appeal.* The applicant may appeal the denial of the Commission Site Plan Approval to the County Commission in writing within twenty (20) calendar days after the rejection of the application.

Notice of the appeal shall be perfected by delivering written notification of the appeal to the County Zoning Administrator within the time allowed specifying the grounds thereof. Upon notice to the County Zoning Administrator, the Planning Commission or staff shall transmit its file, including all documents and statements relied upon by the Planning Commission in rendering its decision, to the County Commission.

Section 18.10 Tolling Provisions

If subsequent to the filing of a any application/petition, the applicant/petitioner is enjoined by order of a court of competent jurisdiction from commencement of construction, the time from the entry of such order against applicant/petitioner until such time as the order is lifted or becomes final and unappealable, shall not be counted toward or against the time allowed/required by these ordinances for applicant to commence construction. The provisions of this section shall retroactively apply to all pending applications/petitions.