

**CITY OF JAMAICA BEACH  
ORDINANCE 2022-03**

**AN ORDINANCE OF THE CITY OF JAMAICA BEACH, TEXAS AMENDING CITY CODE TO RESTRUCTURE THE BOARD OF ADJUSTMENTS CONTAINING A SEVERABILITY CLAUSE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW AND PROVIDING AN EFFECTIVE DATE HEREOF. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH.**

That the facts and matters outlined in the preamble of this Ordinance are hereby found to be accurate and correct; and,

That if any section, clause sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance; and

That the City Council officially finds, determines, recites, and declares that sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted at a location convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required the Open Meeting Law, Chapter 551, Texas Government Code; and that this been discussed, considered and formally acted upon. The meeting has been open to the public as required at all times during which this Ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.

That Section 14-400 Board of Adjustments, Zoning Property within the Corporate Limits City Code of Ordinances, City of Jamaica Beach, Texas, is hereby amended to read as follows:

**BOARD OF ADJUSTMENT  
SECTION 14-400**

**14-401 Organization**

There is hereby created a Board of Adjustments of the City of Jamaica Beach. The members shall be appointed to serve for two-year terms. Positions 1, 2, and 3 on the board shall be for a period to end on the 31st day of January 2023. Positions 4 and 5 on the board shall end on the 31st day of January 2022. Subsequent appointments shall be for two-year terms with positions 1, 2, and 3 ending on the 31st day of January of odd-numbered years and positions 4 and 5 ending on the 31st day of January of even-numbered years.

The mayor shall have the authority to nominate members to the board of adjustments upon expiration of the above terms and to fill unexpired terms of any member who resigns or who no longer meets the qualifications of office. The City Council shall ratify nominations. Such

nomination and ratification shall be made during a regular council meeting. Whenever any member of the board shall move from the City of Jamaica Beach, their membership on the board shall terminate automatically, without prejudice. Members of the board may be removed by City Council after a public hearing and for cause documented in writing. The members shall serve with no compensation.

#### **14-402 Rules of Conduct and Meetings**

The board may adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with Article 1011g, Vernon's Annotated Texas Statutes. [V.T.C.A. Civil Statutes Art. 1011g]. Meetings of the Board of Adjustments shall be at the call of the chairman and at such other times as the Board of Adjustments determine. Such chairman, or in his absence, the acting chairman may administer oaths and complete the attendance of witnesses. All the meetings of the Board of Adjustments shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote to each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustments and shall be a public record.

#### **14-403 Powers and Duties**

The Board of Adjustments shall have the following powers:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
2. To hear and decide special exceptions to the terms of the planning and zoning chapter upon which the board is required to pass under this chapter.
3. To authorize upon appeal in special cases, such variances from the terms of the planning and zoning chapter upon as will not be contrary to the public interest, where owing to special conditions, the literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of this chapter shall be observed, and substantial justice is done.

#### **14-404 Appeals to the Board of Adjustment**

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, or commission of the City of Jamaica Beach affected by any decision of the zoning official. Such appeal shall be taken within a reasonable time, as provided, by the rules of procedure of the Board of Adjustment, by filing with the Zoning Official from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Official from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

#### **14-405 When Appeal Stays All Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from unless the zoning official from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal shall have been filed with them, by that reason of facts stated in the certificate a stay would, in their opinion, cause immediate peril to life or property. In such case, 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 zoning official from whom the appeal is taken and on due cause shown.

#### **14-406 Time for and Notice of Hearing of Appeal**

The Board of Adjustment 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. Upon the hearing, any party may appear in person or by an agent, or by an attorney.

#### **14-407 Action on Appeal**

In exercising the power of the Board of Adjustment may, in reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have the power of the Zoning Official from whom the appeal is taken.

#### **14-408 Application for Special Exceptions and Variances.**

All applications for a special exception to the terms of this Ordinance and for variations from the terms of this Ordinance shall be in writing and shall specify the facts involved, the relief desired, and the grounds, therefore. Each such application shall be filed with the zoning official, who, after investigation, shall transmit such application together with his report to the Board of Adjustment within **(10) Ten** days after the filing of the application with the Zoning Official.

#### **14-409 Hearing on Applications for Special Exceptions and Variances**

The Board of Adjustment Shall fix a reasonable time for the hearing of all applications for special exceptions and variances, give public notice thereof, as well as due to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appeal in person or by an agent, or by an attorney.

### **SPECIAL EXCEPTIONS AND VARIANCES**

#### **SECTION 14-500**

#### **14-501 Granting of Special Exceptions**

The board of adjustments is hereby empowered to permit the following exceptions provided its notion is in harmony with the general purpose and intent of this Ordinance and does not injure the health, safety, morals, or the general welfare of the occupants of nearby properties.

1. Permit such modifications of the height, yard area spacing, and parking regulations as may be necessary to secure appropriate development of a parcel of land of such unusual topography or restricted area and shape that it cannot be appropriately developed without such modification.
2. Permit such modification of the parking regulations as may be warranted by the unusual character of the proposed use.

3. Permit the use of a lot or lots in a residential district, which lot (or lots) is adjacent to a commercial or industrial district, even if separated by an alley or by a street, for parking or passenger's cars under such safeguards and conditions as may be desirable to protect the more restricted adjacent and nearby properties, provided no other business use is made of the lot.
4. Grant a permit for the extension of use into an adjoining district, where such extension would constitute a nonconforming use and where a lot upon which the existing use is situated extended into the adjoining

The Board of Adjustments is hereby empowered to permit the following exceptions provided its action is in harmony with the general purpose and intent of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY** the city council of the city of Jamaica Beach, Create s Jamaica Beach Board of Adjustments.

**SECTION 1** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, sentence, paragraph, or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction such invalidity shall not affect any of the remaining phrases, clause's, sentences, paragraphs, or sections of this Ordinance.

**SECTION 2** All ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed to the extent of such conflict only.

**SECTION 3** This Ordinance shall be and become effective on the 21st day of February 2022.

**PASSED AND APPROVED BY** the 21st day of February 2022.



**CITY OF JAMAICA BEACH, TEXAS**

Clay Morris, Mayor

**ATTEST:**

*Debbie C. Nesbitt*  
Debbie C. Nesbitt, City Secretary

| M/2 |             | Yea                                 | Nay                      | N/V                                 | Absent                              |
|-----|-------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|
|     | C. Morris   | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| m   | R. Rupertus | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
|     | M. Hoffman  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
|     | L. Jones    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
|     | S. Green    | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2   | G. Madray   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |

Passed ~~Failed~~:

*Debbie C. Nesbitt*  
Debbie C. Nesbitt  
City Secretary - Date

2/21/22