

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 7697 (THE “ZONING ORDINANCE”) BY REPEALING ARTICLE NINETEEN, BOARDS; ADOPTING ARTICLE NINETEEN, BOARDS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, in its current form, Article Nineteen, Boards, of Ordinance No. 7696 (the “Zoning Ordinance”) contains discrepancies and inconsistencies that may confuse and prove burdensome to Community Planning employees, property owners who both seek guidance and appear before the Board of Adjustment and Sign Board, and members of the Board of Adjustment and Sign Board; and

WHEREAS, in order to improve and simplify Article Nineteen, Boards, it is necessary that steps be taken to clarify and simplify the application and appeals processes to the Board of Adjustment and Sign Board; and

WHEREAS, the City Council has found that the rules established in Article Nineteen of the Zoning Ordinance are confusing and burdensome to Community Planning employees, property owners, and members of the Board of Adjustment and Sign Board, and that it is in the best interests of the City and its residents that this section be repealed and a new Article Nineteen be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That Article 19 of the Zoning Ordinance (Ordinance No. 7697) is hereby repealed in its entirety.

SECTION 2: That Article 19 of the Zoning Ordinance (Ordinance No. 7697) is hereby adopted with the following:

**ARTICLE NINETEEN
BOARDS**

Section 19.1 – Board of Adjustment

- a. The accommodation will ensure that the City complies with Fair Housing Laws and provides greater housing opportunities for individuals with disabilities.
- b. The housing, which is the subject of the request for reasonable accommodation, will be used by one or more individuals with disabilities protected under Fair Housing Laws.
- c. The requested accommodation is necessary to make housing available to one or more individuals with disabilities protected under the Fair Housing Laws.

- d. The requested accommodation will not impose an undue financial or administrative burden on the City.
 - e. The requested accommodation will not fundamentally alter:
 - a. The City's land use plan;
 - b. The City's zoning design;
 - c. Building codes;
 - d. Any regulation necessary to protect the health and safety of occupants.
- A. Limitations of Powers of Board. The concurring vote of three members of the Board shall be necessary to reverse any order, requirements, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Code or to effect any variation in this Code.
- 1. Powers strictly construed. Nothing herein contained shall be construed to empower the Board to change the terms of the Code or to add to the specific uses permitted in any district. The powers of the Board shall be so construed that this Code is strictly enforced.
- B. Proceedings.
- 1. Public notice shall be given of all meetings and all meetings shall be open to the public.
 - 2. Due notice of all meetings shall be given to interested parties.
 - 3. At any public meeting any interested party may appear in person, by agent, or attorney, to offer evidence and testimony.
 - 4. All evidence and testimony shall be presented publicly. For each case or matter heard, the Board shall cause minutes to be prepared. The minutes shall be kept by the Planning Department and shall be a public record. Additionally, meetings shall be recorded and such recording shall be kept for a period of at least one (1) year to comport with Act 1028 of the Ninety-Second Arkansas General Assembly.
 - 5. At the time of the public meeting, the applicant may appear in his own behalf or be represented by counsel or by agent. The applicant shall be given an opportunity for a final rebuttal.
 - 6. Final decision of any application or appeal to the Board shall be in the form of a motion. The Chairman shall vote on all matters and approval, in all cases, shall require a quorum of the membership of the Board.
- H. Appeals Process.
- 1. Appeals from the Board may be reviewed by a court of competent jurisdiction to the extent the same is permitted by Federal, State or Local law.
 - 2. Liability. Any commissioner, or employee, or member of the Board, charged with the enforcement of this Code, acting for the City in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties to the extent allowable by Federal,

State or local law. Any suit brought against any commissioner or employee, or member of the Board, because of such act performed by him in the enforcement of any provision of this Code shall be defended by legal representative until the final termination of the proceedings.

- I. Notice. Any property owner seeking to appear before the Board shall adhere to the following:
 1. Notice shall be given, in writing, to the property owners abutting the property where the variance is sought.
 - a. If the abutting property is owned by the same property owner as the property where the variance is sought, then notice shall be given to the next abutting property or properties beyond.
 - b. In the case where the City of North Little Rock is listed as a property owner, notice to the City shall be done by the Planning Department.
 2. A public notice of the variance shall be placed in the newspaper at least one time seven days prior to the meeting.
 3. Any property owner seeking a variance shall place a sign designating the intent of a variance for the property, for a period of no less than 14-days prior to the meeting.

ARTICLE NINETEEN BOARDS

Section 19.2 – Sign Board

There shall be and hereby is created a Sign Board consisting of five members. The members of the Sign Board shall be appointed by the Mayor with the approval of the Council for a term of three years and may be removed only for cause upon written charges and after public hearing. Any vacancy, which occurs in the Sign Board, shall be filled by the Mayor with the approval of the Council for the unexpired term of any member whose term became vacant. No member of the Sign Board shall be on the staff of the City.

A. Powers of the Sign Board. The Sign Board shall have the power to consider variances from the terms of Section 14 of this Code.

1. Variances. The Sign Board may authorize, upon appeal in specific cases, variance from the terms of the Sign Regulations. Variances may be sought by applying to the Planning Department on a form prescribed by the Planning Department when accompanied by such reasonable fee as may be established by the North Little Rock City Council. Conditions fixed by the Sign Board will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Code will result in unnecessary hardship; provided, however, that no variance shall be authorized unless the Sign Board shall find that the following conditions exist:
 - a. That the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, that the unique circumstances were not

- created by the owner of the property and are not due to or the result of general conditions in the district in which the property is located.
- b. That the variance will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district.
 - c. That the variance will not alter the essential character of the district in which the property for which the variance is sought is located.
 - d. That the variance will not weaken the general purposes of this Code or the regulations herein established for the specific district.
 - e. That the variance will be in harmony with the spirit and purpose of this Code.
 - f. That the variance will not adversely affect the public health, safety, or general welfare.
2. Limitations of Powers of Sign Board. The concurring vote of three members of the Sign Board shall be necessary to decide in favor of the applicant on any matter upon which the Sign Board is required to pass under this Code or to effect any variation in this Code.
- a. Powers strictly construed. Nothing herein contained shall be construed to empower the Sign Board to change the terms of this Code. The powers of the Sign Board shall be so construed that this Code is strictly enforced.
3. Proceedings.
1. Public notice shall be given of all meetings and all meetings shall be open to the public.
 2. Due notice of all meetings shall be given to interested parties.
 3. At any public meeting any interested party may appear in person, by agent, or attorney, to offer evidence and testimony.
 4. All evidence and testimony shall be presented publicly. For each case or matter heard, the Sign Board shall cause minutes to be prepared. The minutes shall be kept by the Planning Department and shall be a public record. Additionally, meetings shall be recorded and such recording shall be kept for a period of at least one (1) year to comport with Act 1028 of the Ninety-Second Arkansas General Assembly.
 5. At the time of the Public Hearing, the applicant may appear in his own behalf or be represented by counsel or by agent. The applicant shall be given an opportunity for a final rebuttal.
 6. Final decision of any application or appeal to the Sign Board shall be in the form of a motion. The Chairman shall vote on all matters and approval, in all cases, shall require a quorum of the membership of the Sign Board.

B. Appeals Process.

1. Appeals from the Sign Board may be reviewed by a court of competent jurisdiction to the extent the same is permitted by Federal, State or Local law.
2. Liability. Any commissioner, or employee, or member of the Sign Board, charged with the enforcement of this Code, acting for the City in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act

required or permitted in the discharge of his duties to the extent allowable by Federal, State or local law. Any suit brought against any commissioner or employee, or member of the Sign Board, because of such act performed by him in the enforcement of any provision of this Code shall be defended by legal representative until the final termination of the proceedings.

C. Notice. Any property owner seeking a hearing with the Sign Board shall adhere to the following:

1. Notice shall be given, in writing, to the property owners abutting the property where the variance is sought.
 - a. If the abutting property is owned by the same property owner as the property where the variance is sought, then notice shall be given to the next abutting property or properties beyond, unless the distance is greater than 500 feet from the subject property.
 - b. In the case where the City of North Little Rock is listed as a property owner, notice to the City shall be done by the Planning Department.
2. A public notice shall be placed in the newspaper at least one time seven days prior to the meeting.
3. Any property owner seeking a variance shall place a sign designating the intent of a variance for the property, for a period of no less than 14-days prior to the meeting.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases, or provisions.

SECTION 5: It is hereby found and determined that repealing Article Nineteen of the Zoning Ordinance in its current form and adopting a new Article Nineteen in its updated form will clarify and simplify Board of Adjustment and Sign Board procedures; that the adoption of this amended Ordinance is immediately necessary for the orderly development of the City and the public health, safety, and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

Joe A. Smith
Mayor Joe A. Smith *by JAS*

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY

FILED <u>10:35</u> A.M. _____ P.M.
By <u>Amy Fields, CA</u>
DATE <u>6-18-19</u>
<u>Diane Whitbey, City Clerk and Collector</u> <u>North Little Rock, Arkansas</u>
RECEIVED BY <u><i>[Signature]</i></u>