

ORDINANCE # 2011-20
INTRODUCED BY ALEXIUS
DATE INTRODUCED 8/2/11
ITEM NUMBER 2011-08-05
PUBLIC HEARING 9/6/11
ADOPTED/TABLED 9/6/11 (as amended)
EFFECTIVE 2/23/11
BOOK # _____ PAGE # _____
RECORDATION # _____
AMENDED BY ORDINANCE # _____
DATE AMENDED _____

ADOPTION

INTRODUCTION

AMENDED
CITY OF COVINGTON
ORDINANCE NUMBER 2011-20

5 AN ORDINANCE OF THE CITY OF COVINGTON
6 AMENDING THE FOLLOWING PROVISIONS OF THE
7 COVINGTON CODE OF ORDINANCES: APPENDIX B,
8 COMPREHENSIVE ZONING ORDINANCE OF 2010, PART 7.
9 BOARD OF ADJUSTMENT

10
11 FOR ZONING CASE 11-06-03TXT
12
13

14 WHEREAS, the Zoning Commission of the City of Covington has
15 recommended that certain amendments be made to Appendix B, Comprehensive
16 Zoning Ordinance of 2010, Part 7. Board of Adjustment; and

17 WHEREAS, the Covington City Council deems this amendment
18 appropriate to protect the health, safety and welfare of the citizens of Covington;
19 and

20 WHEREAS, the Covington City Council deems this amendment
21 appropriate to protect the First Amendment rights of the citizens of Covington as
22 well as visitors to the City; and

23 WHEREAS, the City Council has held its public hearing in accordance with
24 law,

25 NOW, THEREFORE, be it ordained by the City Council of the City of
26 Covington, at its regular session convened, that Appendix B, Comprehensive
27 Zoning Ordinance of 2010, Part 7. Board of Adjustment, be amended as follows:

28 Sec. 7.1. Creation of ~~board~~ Board.

29 7.101. The legislative body of the City of Covington has created a ~~board~~ Board of
30 ~~adjustment~~ Adjustment as authorized by RS. 33:4727, as amended.
31

32 Sec. 7.2. Duty of ~~board~~ Board.

33 7.201. The duty of the ~~board~~ Board of ~~adjustment~~ Adjustment shall be to:

- 34 1. Hear and decide appeals where it is alleged there is error in any order,
35 requirement, decision, or determination made by an administrative official in the
36 enforcement of the city's zoning ordinance, and;
- 37 2. To hear and decide all matters referred to it or upon which it is required to
38 pass under the ordinance.

1 3. In passing upon appeals, where there are practical difficulties or unnecessary
2 hardships in the way of carrying out the strict letter of the ordinance, the Board of
3 Adjustment may vary or modify the application of any of the regulations or
4 provisions of the ordinance relating to the use, construction or the alteration of
5 buildings or structures or the use of land so that the spirit of the ordinance shall be
6 observed, public safety and welfare secured, and substantial justice done.

7
8 Sec. 7.3. Board of ~~adjustment~~ Adjustment meeting procedure.

9 7.301. The ~~board~~ Board of ~~adjustment~~ Adjustment acts as a judicial body and its
10 meetings shall be held as follows:

11 1. The meetings of the ~~board~~ Board of ~~adjustment~~ Adjustment shall be
12 conducted with judicial decorum.

13 2. Meetings of the ~~board~~ Board shall be held at the call of the chairman and at
14 such times as the ~~board~~ Board may determine.

15 3. The chairman, or in his/her absence, the acting chairman, any administer
16 oaths and compel the attendance of witnesses. Subpoena may be issued under the
17 signature of the chairman or acting chairman.

18 4. Failure to comply with a ~~board~~ Board of ~~adjustment~~ Adjustment subpoena
19 may be punished in Covington Mayor's Court and attachments pursuant to bench
20 warrants may be issued by mayor's court, and executed by the Covington Police
21 Department.

22 5. No person may speak before the ~~board~~ Board of ~~adjustment~~ Adjustment
23 without being administered an oath.

24 ~~6. No person may speak before the board unless identified by a party before the~~
25 ~~board as a witness.~~ Before speaking before the Board, the chair shall qualify each
26 person who proposes to speak. Speaker shall limit their testimony and evidence to
27 matters that are relevant to the case being heard. Each speaker, pro or con, must
28 demonstrate their interest, or connection to the application and the relevance of
29 their testimony. Also, please refer to the Board of Adjustment's meeting rules.

30 7. The City of Covington shall in every instance be a party before the ~~board~~
31 Board of ~~adjustment~~ Adjustment.

32 ~~8. The Federal Rules of Evidence are to be employed, though the chairman~~
33 ~~may, at the request of any appearer before the board or any board member, relax~~
34 ~~these rules as justice and judicial efficiency may require.~~

35 9. 8. All meetings of the ~~board~~ Board shall be open to the public.

36 ~~10.~~ 9. The ~~board~~ Board shall keep minutes of its meetings, showing the vote of
37 each member upon each question, or if absent or failing to vote, indicating that fact
38 and shall keep records of its examination and other official actions, all of which
39 shall be filed immediately in the office of the Board and shall be public record. All
40 testimony, objections thereto, and rulings thereon, shall be taken down by an
41 auditory recording or by a reporter employed by the Board for the purpose.

42
43 Sec. 7.4. Board of Adjustment appeal ~~Appeal~~ process.

44 7.401. Appeals to the ~~board~~ Board of ~~adjustment~~ Adjustment may be taken by any
45 person aggrieved, or by any officer, department, board, or bureau of the
46 municipality affected by any decision of the administrative officer. Appeals shall
47 be taken within a reasonable time, as provided by the rules of the ~~board~~ Board, by
48 filing with the officer from whom the appeal is taken, and with the ~~board~~ Board of
49 ~~adjustment~~ Adjustment a notice of appeal specifying the grounds thereof. The
50 officer from whom the appeal is taken shall forthwith transmit to the ~~board~~ Board
51 all the papers constituting the record upon which the action appealed from was

1 taken, after all transcript costs and all other costs of appeal are paid by the person
2 or entity taking the appeal, the appellant.

3 7.402. An appeal stays all proceedings in furtherance of the action appealed from,
4 unless the officer from whom the appeal is taken certifies to the ~~board~~ Board of
5 ~~adjustment~~ Adjustment after the notice of appeal shall have been filed with him,
6 that by reason of facts stated in the certificate, a stay would, in his/her opinion,
7 cause imminent peril of life or property. In such case proceedings shall not be
8 stayed otherwise than by a restraining order that me be granted by the ~~board~~ Board
9 of ~~adjustment~~ Adjustment or by a court of record on application or notice to the
10 officer from whom the appeal is taken and on due cause shown.

11 7.403. The ~~board~~ Board of ~~adjustment~~ Adjustment shall fix a reasonable time for
12 the hearing of the appeal, give public notice thereof, as well as due notice to the
13 interested parties, and decide the appeal within a reasonable time. Upon the
14 hearing any party may appear in person or by agent or by attorney.

15 ~~7.404. In passing upon appeals, where there are practical difficulties or~~
16 ~~unnecessary hardships in the way of carrying out the strict letter of the ordinance;~~
17 ~~the board of adjustment may vary or modify the application of any of the~~
18 ~~regulations or provisions of the ordinance relating to the use, construction or the~~
19 ~~alteration of buildings or structures or the use of land so that the spirit of the~~
20 ~~ordinance shall be observed, public safety and welfare secured, and substantial~~
21 ~~justice done.~~

22 ~~7.405~~ 7.404. After reviewing all documents and hearing testimony, the ~~board~~
23 Board may reverse or affirm, wholly or partly, or may modify the order,
24 requirement, decision, or determination as ought to be made, and to that end shall
25 have all the powers of the officer from whom the appeal is taken.

26 ~~7.406~~ 7.405. The concurring vote of a majority of the members of the ~~board~~ Board
27 present and voting shall be necessary to reverse any order, requirement, decision,
28 or determination of any administrative official, or to decide in favor of the
29 applicant on any matter upon which it is required to pass under any ordinance, or
30 to effect any variation in the ordinance.

31
32 Sec. 7.5. Appeal from the ~~board~~ Board of ~~adjustment~~ Adjustment.

33 7.501. Any person or persons jointly or severally aggrieved by any decision by the
34 ~~board~~ Board of ~~adjustment~~ Adjustment of any officer, department, board or bureau
35 of he the municipality, may present to the District Court of the Parish or City in
36 which the property affected is illegal, in whole or in part, specifying the grounds of
37 the illegality. The petition shall be presented to the court within 30 days after the
38 filing if the decision in the office of the ~~board~~ Board.

39
40 Sec. 7.6. Board composition.

41 7.601. The ~~board~~ Board of ~~adjustment~~ Adjustment shall consist of five members
42 and two alternate members, all of whom shall be qualified electors in the City of
43 Covington. ~~The membership of the first board shall serve respectively, one for one~~
44 ~~year, one for two years, one for three years, one for four years, and one for five~~
45 ~~years. Thereafter members shall be appointed for terms of five years each.~~ The
46 members of the Board shall be appointed in accordance with state law for terms of
47 five years each. The members of the Board shall reside in the City of Covington
48 and in the district from which they are appointed. If any member should move
49 from the city limits, that member shall immediately forfeit the seat on the Board.
50 If any member should move out of the district where appointed yet still reside
51 within the city limits that member shall serve out the remainder of the term.

1 7.602. Of the two alternate members first appointed, one alternate member shall be
2 appointed for a term of three years and the other for a term of two years. Thereafter
3 each alternate member shall be appointed for a term of three years. Alternate
4 members shall serve only when called upon to ~~compose~~ compose a full five-
5 member ~~board~~ Board when a quorum is present. When so serving, alternate
6 members shall have all the powers and duties of regular members.

7 7.603. All members shall be removable for cause by the appointing authority upon
8 written charges and after public hearings. Vacancies shall be filled for the
9 unexpired term of any member whose term becomes vacant. The ~~board~~ Board
10 shall elect its own chairman and vice chairman, who shall serve for one year.
11

12 Sec. 7.7. Board rules.

13 7.701. The ~~board~~ Board shall adopt rules in accordance with the provisions of any
14 ordinance adopted by the governing authority addressing zoning or the ~~board~~
15 Board of ~~adjustment~~ Adjustment; however, any rules adopted by a ~~board~~ Board of
16 ~~adjustment~~ Adjustment, zoning administrator, or other official or official body
17 appointed by the governing authority shall not be effective until approved in
18 writing by the governing authority. Upon the effective date of this ordinance, the
19 existing ~~board~~ Board of ~~adjustment~~ Adjustment rules shall be null and void and
20 no new rules shall be adopted by the ~~board~~ Board of ~~adjustment~~ Adjustment or
21 submitted to the governing body prior to the appointment of the alternate members.
22

23 **BE IT FURTHER ORDAINED** that if any provision of this ordinance
24 shall be held to be invalid, such invalidity shall not affect other provisions herein
25 which can be given effect without the invalid provision and to this end the
26 provisions of this ordinance are hereby declared to be severable.


27 **WHEREUPON**, this ordinance having been submitted in writing, having
28 been read by title and adopted at a public meeting of the City Council of the City
29 of Covington, State of Louisiana.

30 **WHEREUPON**, O'KEEFE moved for adoption, as amended, seconded
31 by CONER and this ordinance was submitted to a vote and resulted in the
32 following:

33 YEAS: 7 NAYS:
34 ABSTAIN: ABSENT:

35 **PASSED AND ADOPTED** this 6th day of September, 2011.

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LEE S. ALEXIUS
PRESIDENT OF THE COUNCIL

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Bonnie D. Champagne
BONNIE D. CHAMPAGNE
CLERK TO THE COUNCIL

Presented to the Mayor this 8th day of September, 2011, at 11:40 o'clock
A.M.

Bonnie D. Champagne
BONNIE D. CHAMPAGNE
CLERK TO THE COUNCIL

Approved or Vetoed by the Mayor on this 9th day of September,
2011.

Michael B. Cooper
MICHAEL B. COOPER
MAYOR

Received from the Mayor this 9th day of September, 2011, at 9:00
o'clock A.M.

Bonnie D. Champagne
BONNIE D. CHAMPAGNE
CLERK TO THE COUNCIL