

Motion made by Rebecca Huss, seconded by Tom Cronin that the following Order be passed.

ORDINANCE NO. 2019-19

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING SECTION 98-29 OF THE CITY CODE OF ORDINANCES, BY APPOINTING THE CITY COUNCIL TO SERVE AS THE CITY ZONING BOARD OF ADJUSTMENT TO MAKE SPECIAL EXCEPTIONS TO THE TERMS OF THE CITY ZONING ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A TEXAS OPEN MEETING ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

WHEREAS, the City Council of the City of Montgomery, Texas, by Ordinance No. 2014-03, dated May 20, 2014, approved zoning regulations for the City of Montgomery; and

WHEREAS, the zoning regulations have been codified at Chapter 98 of the City Code of Ordinances (“the CODE”); and

WHEREAS, Section 98-29 (b) and (c) of the CODE creates a Board of Adjustment composed of five (5) members appointed by City Council to consider appeals to the City zoning ordinance by the power authorized under Section 211.009 of the Texas Local Government Code; and

WHEREAS, pursuant to Section 211.08(g) of the Texas Local Government Code, the City Council for the City of Montgomery has the authority to serve as the Board of Adjustment to hear and decide special exceptions to the terms of the City zoning ordinance that are consistent with the general purpose and intent of the ordinance;

NOW THEREFORE BE IT ORDAINED CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT:

Section 1. City Ordinance No. 2014-03, dated May 20, 2014, as codified in the City Code of Ordinances at Article II, “Administration and Enforcement,” of Chapter 98, “Zoning,” at Section 98-29, “Board of adjustment; appeals and variances,” is hereby amended by deleting subsections (a) through (d) and replaced by new subsections (a) through (d) to read as follows:

Sec. 98-29 Board of adjustment; appeals and variances

*(a) **Board of adjustment established.** The city council shall serve as the board of adjustment as authorized by Tex. Loc. Gov't Code Section 211.008(g) regarding the zoning of cities, having the powers and duties as provided in the Tex. Loc. Gov't Code Section 211.009*

*(b) **Membership of board of adjustment; chairperson.** The board of adjustment shall consist of the five city council members and the mayor who shall also serve as its chairperson.*

*(c) **Review by Planning and Zoning Commission.** The board of adjustment may request the recommendation of the Planning and Zoning Commission on any appeal presented to the board of adjustment.*

*(d) **Meetings of board of adjustment.** Meetings of the board of adjustment shall be held at the call of the mayor and at such other times as the city council acting as the board of adjustment may determine.*

Section 2. Savings Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this Ordinance, and to such end the various portions and provision of this Ordinance are declared to be severable.

Section 3. Repealing Clause.

Any matters in this Ordinance which are contrary to existing Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances or parts of Ordinances in conflict are hereby repealed to the extent of any conflict.

Section 4. Texas Open Meetings Act.

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 5. Effective Date.

This Ordinance shall be effective upon its publication.

PASSED AND APPROVED upon a second reading on this, the 10th day of September 2019.

CITY OF MONTGOMERY, TEXAS

Sarah Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM

Larry L. Foerster, City Attorney