

ARTICLE XVII

AMENDMENTS

Section 1700. Zoning Ordinance and Map Amendment Procedure

- (a) This Ordinance, including the City of Buford Zoning Maps, may be amended from time to time by the Board of Commissioners of the City of Buford, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the City of Buford Planning Commission for review and recommendation.
- (b) If the City of Buford Planning Commission fails to submit a report within thirty (30) days of its first meeting after it has received an amendment request complete in all respects, it shall be deemed to have given a recommendation or “no comment” on the proposed amendment. However, the City of Buford Planning Commission and the applicant for an amendment may jointly agree to an extension of the thirty (30) day period.
- (c) Before the Board of Commissioners of the City of Buford enact an amendment, they shall hold a public hearing thereon. At least fifteen (15) but not more than forty-five (45) days prior to the date of each such hearing, the Board of Commissioners shall cause to be published within a newspaper of general circulation within the territorial boundaries of the City of Buford, a notice of the hearing. The notice shall state the time, place and purpose of the hearing.
- (d) If a proposed amendment is for the rezoning of property and involves a change in the zoning classification of twenty-five (25) or fewer parcels of land, then:
 - (1) The notice, in addition to the requirements of Subsection (c) above, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property;
 - (2) A sign containing the information outlined in Section (d) (1) above shall be placed in a conspicuous location on the property not less than fifteen (15) days prior to the date of the hearing; and

(3) The Board of Commissioners shall give notice of the proposed rezoning by regular mail to the property owner of record and to all abutting property owners of record as shown by the City of Buford tax records. Such notice shall be mailed at least fifteen (15) days prior to the Planning Commission public hearing and shall include a description of the application and the date, time and place of public hearings. Notice deposited in the mail with adequate postage thereon and addressed to the last known address of the above-named property owners as shown on the City of Buford tax records shall be deemed to be adequate compliance with the requirements of this section.

Section 1701. Initiation of Amendments

Applications for amendment of the text or maps of this Ordinance may be initiated by ordinance of the Board of Commissioners, or by motion of the Planning Commission, or by petition of any property owner addressed to the Board of Commissioners. In the case of a petition for the rezoning of property, such petition shall be submitted by the owner of record of said property, the owner's agent, or by a contract purchaser with the owner's written consent.

One a map amendment is initiated by the Board of Commissioners, no application for a clearing, grubbing, grading, septic tank, building, development or other similar permit, or for a variance or Special Use Permit for the affected property shall be accepted until final action is taken by the Board of Commissioners on the proposed map amendment.

Provided, however, that if the Board of Commissioners does not take final action on the proposed map amendment within six (6) months from the date of initiation, permit, variance and Special Use Permit applications shall again be accepted and reviewed pursuant to existing zoning. And, further provided that such permit applications shall be accepted during the map amendment process if the proposed use is authorized under the same conditions in both the existing and proposed zoning district.

Section 1702. Standards Governing Exercise of the Zoning Power

The Board of Commissioners finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power:

- (a) Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (b) Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property;

- (c) Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned;
- (d) Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
- (e) Whether the proposed rezoning is in conformity with the policy and intent of the land use plan; and
- (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning.

Section 1703. Impact Analysis

If a proposed amendment is for the rezoning of property and involves a change in the zoning classification of twenty-five (25) or fewer parcels of land, then:

- (a) The initiating party, if a party other than the Board of Commissioners, shall be required to file, with its application for amendment, a written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Section 1702 above. Such a zoning proposal and analysis shall be a public record.
- (b) The Planning Department shall, with respect to each such zoning proposal, investigate and make a recommendation with respect to each of the matters enumerated in Section 1702 above. The Planning Commission shall make a written record of its investigation and recommendations, and this record shall be a public record.
- (c) The Planning Commission shall, with respect to each such zoning proposal, investigate and make a recommendation with respect to each of the matters enumerated in Section 1702 above. The Planning Commission shall make a written record of its investigation and recommendations, and this record shall be a public record.

Section 1704. Action by Board of Commissioners

Following its public hearing, the Board of Commissioners may:

- (a) Adopt the proposed amendment as presented;

- (b) Adopt the proposed amendment as revised or supplemented by conditions of approval establishment by the Board; said revisions may include, if the proposed amendment is for the rezoning of property, rezoning to be proposed zoning district with conditions or rezoning to any other less intense zoning district with or without conditions;
- (c) Deny the proposed amendment in whole or in part; or
- (d) Table the proposal.

Section 1705. Special Use Permit Procedure

The Special Use Permit is designed to be used when:

1. A special use listed under the zoning district is desired for development and a more intensive zoning district which contains that use as a use by right would not be appropriate for the property, or,
2. A special use listed under the zoning district is desired for development and no zoning district contains that use as a use by right, or,
3. A unique use not addressed in any zoning district is desired for development and is not likely to be duplicated within the City of Buford, or,
4. The density of development may be affected by the height of a building, or,
5. The neighboring properties may be affected by the height of any structure, and,
6. The special use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood and would not be in conflict with the overall objective of the Comprehensive Plan.

In order to accommodate these special uses, the Special Use Permit allows the Board of Commissioners to approve a special use on a particular parcel without changing the general zoning district. Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility of the special use with the surrounding properties. All Special Use Permit applications shall be for firm development proposals only. The Special Use Permit shall not be used for securing early zoning for conceptual proposals which may not be undertaken for some time. A Special Use Permit application shall be considered only if it is made by the owner of the property or her/her authorized agent. The minimum requirements for a Special Use Permit are:

1. Any uses permitted under a Special Use Permit shall also conform to the requirements of this ordinance and the development regulations for the use as found in the zoning district.
2. The application and review process for a Special Use Permit shall be the same as for the zoning district under which the special use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the Planning Director in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood.
3. In the approval process for a Special Use Permit application, the Board of Commissioners shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area, and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic, storm drainage, land values and compatibility of land use activities.
4. If an application is approved and a Special Use Permit is granted, all conditions that may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. Once established, the special use shall be in continuous operation. Upon discovery that the operation of the special use has or had ceased for a period of ninety (90) days or more and the owner of the property has not requested voluntary termination of the Special Use Permit, the Planning Director shall forward a report to the Board of Commissioners through the Planning Commission which may recommend that action be taken to remove the Special Use Permit from the property.
5. Changes to a special use, or development of a site for the special use, shall be treated as an amendment to the Special Use Permit and shall be subject the same application and review process as a new application.
6. The special use for which a Special Use Permit is granted shall commence permitting, operation or construction within twelve (12) months of the date of approval by the Board of Commissioners. If, at the end of this twelve (12) month period, or subsequent twelve (12) month period, active efforts are not proceeding toward permitting, operation or construction, as determined by the Planning Director the Special Use Permit shall terminate and be revoked by operation of law. The Planning Director may permit a continuance of such permit for good cause upon the affirmative vote of the City Commission.

7. An application for a Special Use Permit in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:

- (a) The Special Use Permit shall be valid for no more than a two (2) year period. Upon or before the expiration of a Special Use Permit, the owner shall make application to continue the Special Use Permit if continuance is desired.
- (b) The special use shall operate within the dwelling on the property or, if approved by the Board of Commissioners, in an accessory structure.
- (c) The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of the special use to the neighborhood, except for any accessory structure approved by the Board of Commissioners.
- (d) The owner of the property shall occupy the property and shall operate any business associated with the special use.
- (e) The owner of the property shall submit with the application, a signed statement in which he/she agrees that the Special Use Permit, if approved, shall automatically terminate in the event that the property is sold, transferred or otherwise conveyed to any other party, or the business which operates the special use is sold, transferred, otherwise conveyed or discontinued. The owner shall also agree to notify the Planning Director, in writing, upon the occurrence of any of these events.
- (f) In addition to the information and/or site plans required by this section, the owner of the property shall submit with the application for a Special Use Permit, information regarding the ownership of any business associates with the use, the experience and background qualifications related to the operation of said business, prior similar businesses operated, applicable State of Georgia certifications, licenses and the like information.
- (g) The special use for which a Special Use Permit is granted shall commence operations or construction within six (6) months of the date of approval by the Board of Commissioners. If, at the end of this six (6) month period, the Planning Director determines that active efforts are not proceeding toward operations for construction, a report shall be forwarded to the Board of Commissioners through the Planning Commission which may recommend that action be taken to remove the Special Use Permit from the property.

8. The owner of the property approved for a Special Use Permit may voluntarily request termination of the Special Use Permit by notifying the Planning Director in writing. The Planning Director shall notify the Board of Commissioners through the Planning Commission of the voluntary terminations as they occur and shall change the official zoning maps to reflect any voluntary termination. The approval of a Special Use Permit for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the Board of Commissioners to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the Special Use Permit by the property owner.
9. The Community Development Department shall have the right to be periodically examine the operation of the specific use to determine compliance with the requirements and any conditions. If the Community Development Department determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten (10) days to come into compliance. If after ten (10) days the violations continue to exist, the Planning Director shall forward a report to the Board of Commissioners through the Planning Commission which may recommend that action be taken to remove the Special Use Permit form the property.
10. Upon approval by the Board of Commissioners, a Special Use Permit shall be identified on the official zoning maps.
11. Upon approval by the Board of Commissioners of a Special Use Permit, the owner of the property shall be issued a notice from the Planning Director which states the specific use permitted, the requirements of this section and may conditions attached to the approval.
12. The Community Development Department shall not issue a Certificate of Occupancy for the specific use unless all requirements and conditions of the Special Use Permit have been fulfilled by the owner of the property.

Section 1706. Withdrawal of Application for Amendment, Variance or Special Use Permit

Once an application for an amendment to the zoning map or an application for a variance or Special Use Permit has been made, the applicant may withdraw such application without prejudice only until such time as the legal advertisement of a public hearing thereon is placed. No application shall be allowed to be withdrawn under any circumstances after public notice of the public hearing has been placed. All applications, having been advertised, shall be considered by the Board of Commissioners or Zoning Board Appeals, as appropriate, and shall receive final action.

Section 1707. Lapse of Time Requirement for an Amendment, Variance or Special Use Permit Reapplication

The following shall apply to the applicable reapplication:

1. No application or reapplication for any zoning amendment affecting the same land or any portion thereof shall be acted upon within twelve (12) months from the date of last action by the Board of Commissioners unless such twelve (12) month period is waived by the Board of Commissioners, and in no case may such an application or reapplication be considered in less than six (6) months from the date of last action by the Board of Commissioners.
2. No application or reapplication for the same type of variance or Special Use Permit affecting the same land or any portion thereof shall be acted upon within twelve (12) months from the date of last action by the Board of Commissioners, or Zoning Board of Appeals, as appropriate, unless such twelve (12) month period is waived by the Board of Commissioners or Zoning Board of Appeals, as appropriate, and in no case may such an application or reapplication be reconsidered in less than six (6) months from the date of Appeals, as appropriate. Administrative variances shall not be subject to this time lapse requirement as outlined in Article XVI, Section 1610.

Section 1708. Plans and Other Documents Showing Proposed Use and Impact Required

An application for an amendment to create or extend a zoning district shall be accompanied by a sketch plan at scale and such other plans, elevations or additional information as the Planning Director and this ordinance may require, showing the proposed development, and its impact on natural and building systems. Additional information may include without limitation traffic studies, utility studies, and drainage studies.

Section 1709. Actions to be Taken if Plans of Property Owner are not Implemented Within Specified Time Limits

For any zoning map amendment for which the Board of Commissioners is not the applicant, and upon which property no development permit, building permit, or certificate of occupancy has been issued within twelve (12) months of the date of approval of said amendment, the Board of Commissioners shall review the zoning district classification of the property and determine whether it shall be continue or initiated for rezoning.

Such properties shall be first reviewed by the Planning Commission, which shall make such findings and recommendations as it deems appropriate.

Section 1709.1. Effective Period of Approved Variance Applications and Special Use Conditions

All applications approved by the Zoning Appeals Board, whether a request for variance from the terms of the Ordinance, a request for a conditional use, or other waiver or relief shall be effective for a period not to exceed one year. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy, or establishment of business within one year from the date of approval by the Board, said approval shall be null or void.

The Director or his/her designee shall furnish the applicant with a response to the subject sign application within thirty (30) days of receipt by the City. Such response shall delineate any deficiencies in the application and additional information needed or specify the reason for denial. The Director or his/her designee may promulgate appropriate application forms and may charge a processing fee for said application.

Section 1710. Conditional Zoning

In adopting an amendment to the zoning map, or approving a Special Use Permit or a Variance, the Board of Commissioners may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes or the district(s) involved and to further the goals and objectives of the Comprehensive Plan. Such conditions may consist of: setbacks requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement that the Board of Commissioners may deem appropriate and necessary as a condition of rezoning or issuance of a variance or Special Use Permit.

Such Conditions:

1. Shall only be valid if they are included in the motion approving the amendment for adoption;
2. Shall be in effect for the period of time specified in the amendment;

3. Shall be required of the property owner and all subsequent owners as a condition of their use of the property; and
4. Shall be interpreted and continuously enforced by the Development Director in the same manner as any other provision of this ordinance.
5. A building permit shall not be issued until after the presentation and approval of the Planning Commission and/or the Board of Commissioners of final site, architecture and development plans required by such conditions.

Section 1720. Public Hearing Procedures

Proceedings To Be Open.

In accordance with Georgia law and the provisions of this Ordinance, all hearings before the City Commission regarding any land use decision and the Planning Commission and Zoning Board of Appeals shall be duly advertised as provided by law and open to the public.

Public Hearing Procedures.

- A. The Chairman shall describe, or cause to be described, the application to be heard, and allow the Applicant or such Applicant's representative (the "Applicant") 10 minutes to fully describe the substance of the application and justification for the action requested in the application.
- B. Upon completion of the Applicant's presentation, the Chairman shall allow persons who wish to speak in support of the application a total of 10 minutes in which to speak in support of the application.
- C. Upon conclusion of the time provided for those to speak in favor of an application, the Chairman shall allow persons who wish to speak in opposition to an application a total of 10 minutes in which to speak in opposition to the application.
- D. Upon conclusion of the opposing application, the Chairman shall allow the Applicant 3 minutes, in addition to any time the Applicant may have reserved from their presentation above to rebut any issue(s) raised by persons speaking in opposition. During the time, the Applicant may submit any additional information or evidence to support the rebuttal.

- E. At the discretion of the Chairman, additional time may be granted to supporters of the application, opponents to the application, or to the Applicant speaking in rebuttal or to alter the rules set forth above.
- F. The Chairman and members of the governing body may ask any questions of the Applicant, supporters, or opponents of the application who have previously spoken.
- G. All persons speaking at the public hearing, before speaking to the application, shall first identify himself or herself and furnish a home or business address for the record. All comments shall be addressed to the Chairman and City Officials present for the hearings and not to the Applicant or member of the audience.
- H. The Chairman may rule as out of order and have removed from the hearing any person who makes inappropriate or offensive comments, who disrupts the proceedings, or who engages in personal attacks upon any person present at the hearing.
- I. Upon completion of all presentations and questions, the Chairman shall close the public hearing on the application and in the case of an application for rezoning, annexation and zoning, or conditional use permit, call for discussion and a vote.