

## ARTICLE IX - ADMINISTRATION ENFORCEMENT, PENALTIES

### SECTION 901 - ENFORCING OFFICER

The provisions of this Ordinance shall be administered and enforced by a Building Official who shall be an employee of the City of Waycross. The duties of the Building Official shall include receiving applications, inspecting premises and issuing building permits and certificates of occupancy for uses and structures that meet the requirement of this Zoning Ordinance and are in accordance with the provisions of the Building Code.

### SECTION 902 - BUILDING PERMITS

Building permits shall be issued in accordance with the following provisions:

902.1 - BUILDING PERMIT REQUIRED - It shall be unlawful to commence the excavation or filling of any lot for any construction of any building or to commence the moving or alteration of any building or to commence the development of land for a use not requiring a building until the Building Official has issued a building permit for such work.

902.2 - ISSUANCE OF BUILDING PERMIT - In applying to the Building Official for a building permit, the applicant shall submit two (2) copies of a dimensioned sketch or scale plan signed by the owner or his authorized agent, indicating the shape, size, and location of the lot to be built upon, the shape, size, heights, use and location of the buildings to be erected, demolished, altered or moved and of any buildings already on the lot, the number of dwelling units the building is designed to accommodate, if any, the setback lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

If the proposed excavation, filling, construction or movement as set forth in said sketch or plan is in conformity with the provisions of this Ordinance and other Ordinances of the City of Waycross, Georgia, then in force, the Building Official shall sign and return one copy of the sketch or plan to the applicant and issue a building permit upon payment of any required fees. The Building Official shall retain one (1) copy of the building permit and one (1) copy of the sketch or plan.

902.3 - REFUSAL OF BUILDING PERMIT - If the sketch or plan submitted describes work which does not conform to the requirements of this Ordinance, the Building Official shall not issue a building permit, but he shall return one (1) copy of the sketch or plan to the applicant along with the signed refusal in writing. Such refusal shall state the reasons therefore and shall cite the portions of this Ordinance with which the submitted sketch or plan does not comply. The Building Official shall retain one (1) copy of the sketch or plan and two (2) copies of the refusal.

902.4 - TIME LIMITATIONS - Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year.

### SECTION 903 - CERTIFICATE OF OCCUPANCY

Certificates of Occupancy shall be issued in accordance with the following provisions:

903.1 - CERTIFICATE OF OCCUPANCY REQUIRED - A certificate of occupancy issued by the Building Official is required in advance of occupancy or use of:

- (a) A building hereafter erected.
- (b) A building hereafter altered so as to affect the front, side or rear yard thereof.
- (c) A change of type or occupancy or use of any building or land.
- (d) Each non-conforming use created by the passage of and/or subsequent amendment to this Ordinance.

903.2 - ISSUANCE OF CERTIFICATE OF OCCUPANCY - Upon payment of any required fees, the Building Official shall sign and issue a certificate of occupancy if the proposed use of land or a building, as stated on the certificate of occupancy and signed thereto by the owner or his appointed agent, is found to conform to the applicable provisions of this Ordinance, and if the building, as finally constructed, complies with the sketch or plan submitted for the building permit. One (1) copy of all certificates of occupancy issued, which shall contain a statement of the intended use of the applicable property signed by the owner or his agent shall be kept on file in the office of the Building Official. Copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved, at said person's expense.

903.3 - DENIAL OF CERTIFICATE OF OCCUPANCY - A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance or unless the building, as finally constructed, complies with the sketch or plan upon which the building permit was issued.

### SECTION 904 - RECORDS

It shall be the duty of the Building Official to keep a record of all building permits and certificates of occupancy issued, with a notation of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be available for the use of any public body or official involved in the administration or enforcement of this Ordinance.

### SECTION 905 - PENALTIES

905.1 - Any person violating any provision of this Ordinance shall be punished as provided by Chapter 1, Section 4, of the Code of the City of Waycross, Georgia, 1952. Each day such violation continues shall constitute a separate offense.

905.2 - No person shall engage in any prohibited use (as defined in Section 317.6), nor shall any person knowingly permit any prohibited use of zoning lot, lots, building, structure or dwelling which he owns or possesses. Persons who engage in prohibited use shall be punished as set forth in Section 1 - 6 of the Code of the City of Waycross, Georgia. Each day any violation of this Section shall continue shall constitute a separate offense.

#### SECTION 906 - REMEDIES

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this Ordinance, the Building Official or any other appropriate city authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction proceedings or other appropriate action, in proceedings to prevent the violation in the case of each such building or use of land.

#### SECTION 907 - BOARD OF ZONING APPEALS

907.1 - APPOINTMENT - The Board of Zoning Appeals of the City of Waycross, Georgia, (hereinafter called the "Board"), is hereby established in accordance with the provisions of this Ordinance. Said Board shall consist of seven (7) members appointed by the Commission of the City of Waycross. The members shall serve for overlapping terms of three (3) years or until succeeded. The five (5) existing members shall serve their terms as previously appointed. The two (2) additional members shall each be initially appointed for terms of one (1) year. No member shall hold any other public office or position, except that one (1) member shall also be a member of the Planning Commission. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointments. Members shall be removable for cause by the appointing authority upon written charges and after a public hearing. No compensation shall be paid to members of the Board except that each member may receive up to \$10.00 a month for expense.

907.2 - AUTHORITY - The Board shall have jurisdiction of certain matters arising in connection with the administration, enforcement or interpretation of this Ordinance, as herein provided.

907.3 - PROCEDURE - The Board shall elect one of its members as chairman, who shall serve for one (1) year, or until he is re-elected or his successor is elected. The

Board shall appoint a secretary who may be an officer of the governing authority or of the Planning Commission.

The Board shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, acting chairman, may administer oaths and compel the attendance of witness by subpoena. All meetings of the Board shall be open to the public. No member of the Board shall participate in a hearing in which he has any pecuniary or special interest.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

907.4 - POWERS AND DUTIES - The Board shall have the following powers:

- (a) ADMINISTRATIVE REVIEW. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination of the Building Official in the enforcement of this Ordinance.
- (b) VARIANCES - To authorize upon appeal in specific individual cases such variances from terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted in such individual cases of practical difficulty or unnecessary hardship only upon a finding by the Board that all of the following conditions exist:

- There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography, and
- The application of this Ordinance to this particular piece of property would create an unnecessary hardship, and
- Such conditions are peculiar to the particular piece of property involved, and
- Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance, and
- The special circumstances surrounding the request for a variance are not the result of acts by the applicant, and
- The variance is not a request to permit a use of land, buildings or structures which is not permitted by right or by special exception the district involved.

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- (1) Use Variances Prohibited. No variance may be granted for use of land or premises.

- (2) Procedures for Requesting a Variance. Requests for a variance shall be filed in writing with the Building Official. Within ten (10) days after receiving a request for a variance, the Building Official shall:
- Send the request, with any comments he may deem necessary added thereto, to the Secretary of the Board.
  - Cause to have posted in a conspicuous place on the property, one (1) or more signs, each of which shall not be less than twelve (12) square feet in area, and each of which shall contain information as to the proposed change and the date and time of the public hearings before the Board.
- (d) ACTION ON APPEALS - In exercising the above powers, the Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determinations of the Building Official and, to that end, shall have all the powers of the Building Official and may issue or direct the issuance of a permit.
- (e) APPEALS - HOW TAKEN - Appeals to the Board may be taken by any person aggrieved, or by an officer, department, Board or bureau of the City of Waycross, Georgia, affected by any decision of the Building Official or other officials based on this Ordinance. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Official and any other city official involved, and with the Board, a written notice of appeal specifying the grounds therefor. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (f) PUBLIC HEARINGS ON APPEALS - The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give at least fifteen (15) days public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appear in person, or by agent, or by attorney.
- (g) STAY OF PROCEEDINGS - An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of competent jurisdiction on notice to the official from whom the appeal is taken and on due cause shown.
- (h) EXPLANATION OF DECISIONS - On all appeals, applications or other matters, the Board shall inform, in writing, all parties involved of its decision and the reasons thereof.
- (i) DUTIES OF BUILDING OFFICIAL, BOARD OF ZONING APPEALS, CITY COMMISSION AND COURTS, ON MATTERS OF APPEALS - It is the intent of this Ordinance, that all questions arising in connection with

the enforcement or the interpretation of this Ordinance, (except as otherwise expressly provided in this Ordinance) shall be first presented to the Building Official; and that such questions shall be presented to the Board of Zoning Appeals only on appeals from the Building Official, and that from the decisions of the Board of Zoning Appeals, recourse shall be taken to the Courts as provided by law. It is further the intent of this Ordinance that the duties of the City Commission in connection with this Ordinance shall not include hearing and passing on disputed questions which might arise in connection with the enforcement or interpretation of this Ordinance; but the procedures for determining such questions shall be as stated in this Ordinance and that the duties of the City Commission in connection with this Ordinance shall be only the duty of holding a public hearing and voting upon any proposed amendment or repeal of this Ordinance as provided by law.

907.5 - FEES - The following fees shall be paid with application by check made out to the City of Waycross in the following amounts:

- (a) Administrative Review    \$30.00
- (b) Special Exceptions        \$50.00
- (c) Variances                    \$50.00

907.6 – PROVISIONS APPLICABLE TO VARIANCE EXPIRATION OF ALL GRANTED VARIANCES – On all granted variances, the applicant(s) or interested parties shall comply with the following requirements:

- (a) Whenever a request for a variance is approved, the applicant for the variance (the “Applicant”) or a person designated in writing by the Applicant (the “Designee”) must exercise the right, privilege or immunity (the “Variance Privilege”) granted by the variance within six months of the date that the variance is approved (the “Variance Exercise Period”). (The term Applicant/Designee when used herein shall mean and refer to the Applicant or the Designee, as applicable). If the Applicant/Designee fails to exercise such Variance Privilege within the Variance Exercise Period, the variance shall thereupon terminate and shall thereafter be null, void and of no force and effect. “Applicant” shall also include, without limitation, persons who have applied for a variance before the effective date of this Section 907.6.
- (b) If the Applicant/Designee commences, in a timely manner and in the exercise of good faith, action necessary and appropriate in order to exercise the Variance Privilege, but such action has not been completed by the end of the Variance Exercise Period, the Applicant/Designee, shall have an additional period of time, not to exceed three (3) months, in which to complete the action to exercise the Variance Privilege. However, if the Applicant/Designee has not commenced such action in a timely manner and in the exercise of good faith, then the Variance Privilege shall terminate at the end of the Variance Exercise Period. *(Such additional period not*

*to exceed three months shall be at the discretion of the City Building Official, reasonably exercised.)*

- (c) With respect to any variance which has been granted to any Applicant/Designee before the effective date of this Section 907.6, and the work and action necessary to exercise the Variance Privilege is not completed at the time of the effective date of this Section, the Applicant/Designee shall have six (6) months from the effective date of this section to complete the work and action to exercise such Variance Privilege. If all such work and action is not completed within six months of the effective date of this section (and an additional period not to exceed three (3) months; such additional period not to exceed three months shall be at the discretion of the City Building Official, reasonably exercised), such variance shall terminate and thereafter be null and void.
- (d) The grant of a variance shall be strictly construed and governed by the exact terms and conditions thereof.
- (e) Whenever a Variance Privilege is lawfully granted by the City of Waycross and exercised by the Applicant or by the Designee, and after the commencement of the Applicant's Designee's exercise thereof, and thereafter the Applicant/Designee ceases to exercise such Variance Privilege for a period of six (6) months, then such Variance Privilege shall terminate immediately after six (6) months following such non-exercise and shall thereafter be null and void.
- (f) With respect to Variances which have been granted before the effective date of this ordinance and wherein the Applicant/Designee has timely and in good faith exercised the Variance Privilege, such variances shall not be affected by this Section.

## SECTION 908 - AMENDMENTS

908.1 - AUTHORITY - The City Commission of Waycross may amend this Ordinance including the Zoning Maps, in accordance with the procedures herein specified.

908.2 - INITIATION OF AMENDMENTS - A petition for a zoning amendment may be initiated by:

- (a) The Commission of the City of Waycross.
- (b) The Waycross-Ware County Planning Commission
- (c) Any department or agency of the City.
- (d) Any other person or agency, providing the petition is accompanied by a payment of one hundred (\$100.00) dollars, payable to the City of Waycross, to defray costs of processing and erecting signs. In no case shall a petition for a zoning amendment affecting the same parcel of land be submitted more often than once every twelve (12) months.

908.3 - SUBMITTAL OF AMENDMENTS - Any person or persons or agency desiring to submit a petition requesting a change in the Official Zoning Map shall file such petition, together with an accurate legal description of the property tied to a permanent location and a plat, survey or other drawing that accurately describes the property together with the rezoning fee at the Waycross Community Improvement Office, City Hall.

908.4 - A REVIEW BY THE PLANNING COMMISSION - Unless initiated by that body, all petitions for zoning amendments shall be submitted to the Waycross-Ware County Planning Commission for study and review. From the date of submittal, the Commission shall have not more than thirty (30) days in which to submit a written report to the City Commission setting forth their findings and recommendations. If the Planning Commission fails to submit a written report within that period, it shall be deemed to have approved the proposed amendment.

908.5 - PUBLIC HEARING - Before enacting an amendment to this Ordinance, the City Commission of Waycross shall hold a public hearing thereon. At least fifteen (15) days notice of the time and place of such a public hearing shall be published in a newspaper of general circulation in the City of Waycross.

908.6 - SIGNS - Whenever a proposed amendment to this Ordinance involves changing the zoning classification of property from one type of district to another, the Building Official shall cause to have posted in a conspicuous place on said property, one or more signs, each of which shall not be less than twelve (12) square feet in area, and each of which shall contain information as to the proposed change and the date, time and place of the public hearing before the City Commission. No such public hearings shall take place until said signs have been posted at least fifteen (15) days.

908.7 - WITHDRAWAL OF AMENDMENT PETITION - Any petition for an amendment to this Ordinance may be withdrawn at any time at the discretion of the person or agency initiating such a request upon written notice to the City Clerk. The City Commission may refund any portion of the aforementioned one hundred (\$100.00) dollar payment as it deems necessary and may retain the remainder in the City Treasury in order to defray any costs incurred.

908.8 - ZONING POLICIES AND PROCEDURES FOR PUBLIC HEARINGS AND ZONING DECISIONS STANDARDS

(a) Policies and Procedures for Calling and Conducting Public Hearings on Proposed Zoning Actions. Whenever the Commission of the City of Waycross calls and conducts a public hearing on a proposed amendment to the text of the Waycross Zoning Ordinance or to the Official Zoning Map, the Commission of the City of Waycross shall abide by the following policies and procedures.

(1) Calling the Hearing:

(a) Notice: At least 15 but not more than 45 days prior to the date of the hearing, the City Commission shall publish a notice of the hearing in the Waycross Journal Herald. The notice shall state the time, place, and purpose of the hearing. If the hearing concerns a proposed amendment to the Official Zoning Map, then the notice shall also state the

location of the property, the present zoning classification and the proposed zoning classification.

(b) Sign: If the hearing concerns a proposed amendment to the Official Zoning Map, then at least 15 days prior to the date of the hearing the Building Official or his designee shall post a sign in a conspicuous place on the property. The sign shall state the time, place and purpose of the hearing, the present zoning classification and the proposed zoning classification.

(c) Agenda: At least 15 days prior to the date of the hearing, the City Clerk shall prepare an agenda of the proposed amendments to be considered at the hearing. Copies of the agenda and the Planning Commission report on each proposed amendment shall be available for public review in the City Clerk's office during regular office hours for a period of at least 15 days prior to the date of the hearing.

(2) Conducting the Hearing:

The Mayor or his designee shall open the hearing at the time and place specified in the hearing notice. The rules of the hearing shall be announced before proceeding to address the proposed amendments listed on the agenda. For each proposed amendment:

- (a) The City Clerk shall read aloud the published and posted notice of the hearing;
- (b) The presiding officer shall call upon the City Clerk or the Planning Director to read aloud the report or summarize the report of the Planning Commission;
- (c) The Petitioner for rezoning shall have 10 minutes in which to present reasons why the proposed rezoning should be approved;
- (d) The opponent of the proposed rezoning shall have 10 minutes in which to present reasons why the proposed rezoning should not be approved. Anyone opposed to the proposed zoning shall register with the City Clerk his opposition in writing prior to the commencement of the public hearing, giving his name, address, telephone number, and that he wishes to appear in opposition to the proposed rezoning. If more than one person should register in opposition to the proposed rezoning, then the one who registers first shall be entitled to use the 10 minutes to present the reasons why the proposed rezoning should not be approved; provided, however, those in opposition may mutually agree to a division of the allotted ten minutes; further provided that those in opposition, if not allowed to use any of the 10 minutes under the provisions of this subsection, shall be entitled to present reasons why the proposed rezoning should not be approved under the provisions of subsection (6) herein; provided, however, he must satisfy the requirements of said subsection;
- (e) Following the presentations provided for (c) and (d) herein, others who wish to present reasons why the proposed rezoning should be approved (and who have not already appeared before the Commission on the rezoning issue then before the Commission) shall be permitted 3 minutes each to present such reasons. The order of presentation for those qualifying to make a presentation under this subsection shall be determined by the Mayor or other presiding officer at the meeting.
- (f) Following the presentation provided for in (c), (d), and (e) herein, others who wish to present reasons why the proposed rezoning should not be approved, (and who have not already appeared before the Commission on the rezoning issue then before the Commission) shall be permitted 3 minutes each to present reasons why the proposed rezoning should not be approved. The order of appearance for those qualifying to make a presentation under this subsection shall be determined by the Mayor or other presiding officer at the meeting.

(b) Standards to be used in Making Zoning Decisions.

- (1) Whenever the Commission of the City of Waycross makes a final decision regarding a proposed amendment to the Official Zoning Map, the Commission of the City of Waycross shall balance the interest of the community in promoting the public health, safety, morality, and general welfare against the right of property owners to the unrestricted use of their property.

In making zoning decisions, the Commission of the City of Waycross shall use the following standards:

- (a) Whether the proposed amendment would permit a use that is suitable in view of the use and development of adjacent and nearby property;
  - (b) Whether the proposed amendment would adversely affect the existing use or usability of adjacent or nearby property;
  - (c) Whether the property to be affected by the proposed amendment has a reasonable economic use as currently zoned;
  - (d) Whether the proposed amendment would result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
  - (e) If the City has an adopted land use plan, whether the proposed amendment is in conformity with the policy and intent of the land use plan; however, nothing herein shall prevent a zoning decision which is not in conformity with the policy and intent of such 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 amendment.
- (2) Whenever the Waycross-Ware County Planning Commission makes a recommendation regarding a proposed amendment to the Official Zoning Map, it shall use the above standards.