

MEMO

To: Planning Commission, Mayor Santini & City Council
From: Randy Mannino and David Hardegree
Date: May 25, 2023
Re: *Text Amendment T23-03. Updates to Chapter 26, Zoning.*

In 2022, the Georgia State Legislature adopted changes to the Zoning Procedures Law, O.C.G.A. Title 36, Chapter 66. The changes took effect July 1, 2022. Local jurisdictions have until July 1, 2023 to adopt these changes.

The purpose of the updates is:

- to revise provisions related to judicial review of zoning decisions;
- to revise definitions;
- to provide for requirements for zoning decisions by boards or agencies using delegated powers;
- to provide additional notice and hearing provisions for changes to zoning ordinances that revise single-family residential classifications and definitions so as to authorize multifamily residential property uses;
- to require review procedures for decisions made by boards or agencies using delegated powers;
- to provide for judicial review of zoning decisions; and
- to require certain designations relating to appeals of quasi-judicial decisions.

Multiple revisions to the City's Zoning ordinance are required as demonstrated in the revised sections, attached. Key revisions to the city ordinance include:

- Removing the administrative variance option;
- Defining "Quasi-Judicial" (board or action)
- Increasing the public notification period from 15 days to 30 days for variance hearings;
- Incorporating the ten (10) *Standards for governing the exercise of zoning power* for review of variance and special use permit applications;
- Clarifying public notification process for single family to multi-family zoning decisions; and,
- Updating the judicial appeals process.

Chapter 26. Zoning. Revision Summary

1. Sec. 2.2 Definitions
2. Sec. 14.3 General Area, Height and Setback Regulations
3. Sec. 17.6 Number of Parking Spaces
4. Sec. 19.2 Administrative Variance [deleted]
5. Sec. 19.4 Zoning Enforcement Officers; Appeals
6. Sec. 21.1.4 Establishment of Board of Zoning Appeals
7. Sec. 21.2 Proceedings of the Board
8. Sec. 21.4.2 Published Notice
9. Sec. 21.4.3 Published Notice
10. Sec. 21.5 Stay of Proceedings
11. Sec. 21.9.1 Appeals to Court
12. (NEW) Sec. 21.10 Certiorari and Service [Appeals]
13. (NEW) Sec. 21.11 Standards for governing the exercise of zoning power [Appeals]
14. Sec. 22.1.3 . Resubmission After Denial
15. Sec. 22.1.4 Alter Conditions
16. Sec. 22.1.6 Requirements for City Applications
17. Sec. 22.1.9 Multi-family and Single Family Zoning Decisions
18. Sec. 22.3.4 City Exemptions
19. Sec. 22.6.1 Public Hearing
20. Sec. 22.8 Appeals to Superior Court
21. Sec. 22.9 Standards for the Exercise of Zoning Power
22. (NEW) Sec. 22.13 Multi-family and Single-family Residential per O.C.G.A. § 36-66-4(h).
23. Sec. 23.4 Appeals to Superior Court
24. Sec. 23.5 Reapplication
25. (NEW) Sec. 23.6 Standards for governing the exercise of zoning power for special use permits
26. (NEW) Sec. 23.7 Certiorari and service [Special Use]

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE II. - INTERPRETATIONS AND DEFINITIONS SEC. 2.2. - DEFINITIONS. is hereby amended by adding the following two definitions:

1.

Sec. 2.2. – Definitions.

Quasi-Judicial officers, boards or agencies. Shall have the same definition as provided for in O.C.G.A. § 36-66-3(1.1).

Zoning Decision. Shall have the same definition as provided for in O.C.G.A. § 36-66-3(4).

2.

All other existing provisions of Sec. 2-2 not changed herein, shall remain as is.

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be re-alphabetized to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XIV. BUSINESS PARK OVERLAY. SEC. 14.3. – GENERAL AREA, HEIGHT AND SET BACK REGULATIONS is hereby amended by deleting paragraphs A. and B. in their entirety and replacing as follows:

1.

Sec. 14.3. - General area, height and setback regulations.

A. Reserved.

B. Building height. Building height limitations shall not apply to accessory structures such as water towers, conveyer belts, smokestacks and other incidental and uninhabited parts of industrial uses.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XVII. – OFF-STREET PARKING AND SERVICE REQUIREMENTS. SEC. 17.6. – NUMBER OF PARKING SPACES is hereby amended by deleting said section in its entirety and replacing as follows:

1.

Sec. 17.6. – Number of parking spaces.

In order to ensure a proper and uniform development of public parking areas throughout the area of jurisdiction of this chapter, to relieve traffic congestion on the streets, to lessen the amount of impervious surface in the city, and to minimize any detrimental effects on adjacent properties, off-street parking space shall be provided and maintained as called for in the following sections. For any use or class of use not mentioned in this section, the requirements shall be the same as similar use as mentioned herein.

Any decrease in the number of parking spaces required by this section must be approved by the board of zoning appeals under the variance procedures set forth by this chapter.

Parking requirements for additions to existing uses shall be based upon the new addition even if the existing use is deficient. (These regulations shall apply to all districts except the DBD.)

- 17.6.1. *Apartment and multifamily dwelling.* Two (2) spaces for each dwelling unit
- 17.6.2. *Auditorium, stadium, assembly hall, gymnasium, theater, community recreation center, religious institution.* One (1) space per four (4) fixed seats in largest assembly room or area, or one (1) space for each fifty (50) square feet of floor area available for the accommodation of movable seats in the largest assembly room.
- 17.6.3. *Automobile fueling station.* One (1) space (in addition to service area) for each pump and grease rack, but not less than six (6) spaces.
- 17.6.4. *Automobile, truck, recreational vehicle sales and service.* One (1) space for each five hundred (500) square feet of gross floor area.
- 17.6.5. *Automotive, truck, recreational vehicle repair and service.* One (1) space for each five hundred (500) square feet of gross floor area or two (2) spaces per bay.
- 17.6.6. *Billiards and pool halls.* Two (2) spaces per pool table.
- 17.6.7. *Bowling alley.* Two (2) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
- 17.6.8. *Club or lodge.* One (1) space for each two hundred (200) square feet of gross floor area within the main assembly area.
- 17.6.9. *Combined uses.* Parking spaces shall be the total of the space required for each separate use established by this schedule.

- 17.6.10. *Convenience food stores with self-service fueling pumps.* One (1) space per two hundred (200) square feet of gross floor space.
- 17.6.11. *Dance school.* One (1) space per two hundred (200) square feet of gross floor area plus safe and convenient loading and unloading of students.
- 17.6.12. *Dormitory, fraternity or sorority.* Three (3) spaces for each four (4) occupants.
- 17.6.13. *Golf course.* Four (4) spaces for each hole, plus requirements for any other use associated with the golf course.
- 17.6.14. *High schools, trade schools, colleges, and universities.* One (1) space for each two (2) teachers, employees and administrative personnel plus five (5) spaces for each classroom.
- 17.6.15. *Hospital or care home.* One (1) space for each two (2) beds.
- 17.6.16. *Hotel/motel.* One (1) space for each guest room, suite, or unit.
- 17.6.17. *Indoor and outdoor recreational areas (commercial) YMCA, and similar uses.* One (1) space for each one hundred fifty (150) square feet of gross floor, building, ground area, or combination devoted to such use.
- 17.6.18. *Industrial or manufacturing establishment or warehouse.* One (1) parking space for each one thousand (1,000) square feet of gross floor area.
- 17.6.19. *Kindergarten and nursery schools.* One (1) space for each employee plus safe and convenient loading of students.
- 17.6.20. *Mobile home park.* One (1) space for each mobile home site.
- 17.6.21. *Office, professional building, or similar use.* One (1) space for each four hundred (400) square feet of gross floor area.
- 17.6.22. *Personal service establishment.* One (1) space for each four hundred (400) square feet of gross floor area.
- 17.6.23. *Restaurant or place dispensing food, drink, or refreshments which provides seating indoors.* One (1) space for each four (4) seats provided for patron use.
- 17.6.24. *Restaurant, drive-thru, with no provision for seating indoors.* One (1) space per one hundred (100) square feet of gross floor area, but not less than ten (10) spaces.
- 17.6.25. *Retail stores of all.* One (1) space for each four hundred (400) square feet of gross floor area.
- 17.6.26. *Schools, elementary.* Three (3) spaces for each classroom, plus safe and convenient loading and unloading of students.
- 17.6.27. *Shopping center.* One (1) space for each four hundred (400) square feet of gross floor area.
- 17.6.28. *Single-family dwelling.* Two (2) spaces per each unit. (A driveway shall not be considered a parking space when determining required parking for a single-family dwelling).

17.6.29. *Wholesale establishment.* One (1) parking space for each one thousand (1,000) square feet of gross floor area.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XIX. - INTERPRETATION, ADMINISTRATIVE ACTION, AND ENFORCEMENT SEC. 19.2. - ADMINISTRATIVE VARIANCE. is hereby amended by deleting said section in its entirety and replacing it with the following:

1.

Sec. 19.2. – Reserved.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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1.

Sec. 19.4. – Zoning enforcement officers; appeals.

The provisions of this chapter shall be administered and enforced by the zoning administrator, and/or his/her designee. Decisions of the zoning administrator may be appealed in accordance with the provisions of this article. Requests for a variance shall be heard and decided by the board of appeals in accordance with the guidelines set forth in Article XXI.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. SEC. 21.1. – ESTABLISHMENT OF BOARD OF ZONING APPEALS. is hereby amended by adding a new subsection 21.1.4 as follows:

1.

Sec. 21.1. - Establishment of board of zoning appeals.

21.1.4. The Board of Zoning Appeals, for zoning decisions and variances, is considered a quasi-judicial board as defined by O.C.G.A. § 36-66-3(1.1).

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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1.

Sec. 21.2. – Proceedings of the board of zoning.

21.2.5. For each variance to the ordinance, a separate public hearing shall be required.

2.

All other existing provisions of Sec. 21.2 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. SEC. 21.4. – APPLICATIONS, HEARINGS AND NOTICE. SUBSECTION 21.4.2. PUBLISHED NOTICE. is hereby amended by deleting said subsection in its entirety and replacing it as follows:

1.

Sec. 21.4. - Applications, hearing and notice.

21.4.2. *Published notice.* Due notice of the public hearings pursuant to this article shall be published in the legal organ of Bartow County. Notice advertising the hearing on the appeal or variance and indicating date, time, place and purpose of the public hearing shall be published at least thirty (30) days but not more than forty-five (45) days prior to the date of the hearing. The cost of the advertisement shall be borne by the applicant. For variances, the zoning administrator shall post, at least thirty (30) days prior to the board of appeals' public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application number, date, time and place of the public hearing. The board may require the applicant to re-advertise at the applicant's expense or the board's expense, if a request is tabled.

2.

All other existing provisions of Sec. 21.4 not changed herein, shall remain as is.

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. SEC. 21.4. – APPLICATIONS, HEARINGS AND NOTICE. SUBSECTION 21.4.3. PUBLISHED NOTICE. is hereby amended by deleting said subsection in its entirety and replacing it as follows:

1.

Sec. 21.4. - Applications, hearing and notice.

21.4.3. *Letters to property owner and adjacent property owners.* The applicant for said appeal or variance shall also give notice of the appeal or variance and the public hearing thereon to the owner of property as required by O.C.G.A. § 36-66-4(g) and all property owners adjoining the property for which said appeal or variance is made or sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the Post Office. Proof of mailing means either a first class "certificate of mailing" or a first class "certified mail" receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the January 1 of the year the application is filed shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Proof of mailing for each recipient shall be provided to the zoning administrator before the public hearing. Said notice must be mailed at least thirty (30) days prior to the date of said scheduled public hearing. In the event a hearing is tabled, the applicant is required at their expense to resend notices of the new date and time for the hearing.

2.

All other existing provisions of Sec. 21.4 not changed herein, shall remain as is.

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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1.

Sec. 21.5. – Stay of proceedings.

Stay of proceedings are as provided for in O.C.G.A. § 36-66-5.1(d).

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. SEC. 21.9. – APPEALS. SUBSECTION 21.9.1 APPEALS TO COURT. is hereby amended by deleting said subsection in its entirety and replacing it as follows:

1.

Sec. 21.9. – Appeals.

21.9.1. *Appeal to court.* Recourse from a decision of the Board of Zoning Appeals shall be as provided for in O.C.G.A. § 36-66-5.1(a)(1) or (2) as appropriate, or as otherwise provided for by law.

2.

All other existing provisions of Sec. 21.9 not changed herein, shall remain as is.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. is hereby amended by adding a new Sec. 21.10 – Certiorari and Service as follows:

1.

Sec. 21.10. – Certiorari and Service.

21.10.1. Certificates. Authority to approve certiorari documents. In order to comply with O.C.G.A. § 36-66-5.1(c), the Chairman of the Board of Zoning Appeals, is authorized to issue certiorari bonds and certificate of costs upon, and related documents confirmation with City staff, that such approvals are appropriate.

21.10.2. Authority to accept service.

(a) For purposes of certiorari proceedings, the Mayor of the City of Cartersville and/or the Chairman of the Board of Zoning Appeals, as appropriate, is authorized to accept service on behalf of the City of Cartersville.

(b) The Mayor of the City of Cartersville is authorized to accept service of process on behalf of the City of Cartersville as opposite party.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXI. - APPEALS. is hereby amended by adding a new Sec. 21.11 – Standards for governing the exercise of zoning power as follows:

1.

Sec. 21.11. – Standards for governing the exercise of zoning power.

(a) The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. § 36-66-5(b):

1. The existing land uses and zoning classification of nearby property;
2. The suitability of the subject property for the zoned purposes;
3. The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
4. Whether the subject property has a reasonable economic use as currently zoned;
5. Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
6. Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
7. Whether the zoning proposal is in conformity with the then current future development plan and community agenda of the comprehensive land use plan as currently adopted or as amended in the future;
8. Whether the zoning proposal will result in a use which will or could; adversely affect the environment, including, but not limited to, drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity;
9. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
10. 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 zoning proposal.

(b) Said standards shall be printed and available for distribution to the public at all meetings or the Board of Zoning Appeals, in addition to those listed in Section 21.4

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. - AMENDMENTS SEC. 22.1. – INITIATION OF AMENDMENTS. SUBSECTION 22.1.3. RESUBMISSION AFTER DENIAL is hereby amended by deleting said subsection in its entirety and replacing as follows:

1.

Sec. 22.1. – Initiation of amendments.

22.1.3. Resubmission after denial. In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until six (6) months have passed from the date of the final decision by the mayor and city council.

2.

All other existing provisions of Sec. 22.1 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. - AMENDMENTS SEC. 22.1 – INITIATION OF AMENDMENTS SUBSECTION 22.1.4 ALTER CONDITIONS is hereby amended by deleting said subsection in its entirety and replacing as follows:

1.

Sec. 22.1. – Initiation of amendments.

22.1.4. *Alter conditions.* An application to alter conditions of rezoning may be submitted at any time after the final decision of the mayor and city council, except in the event that a zoning decision of the property had been denied, then said application cannot be resubmitted until after six (6) months from the final decision of the mayor and city council. The applicant must show a change in circumstances or additional information not available to the applicant at the time of the original decision by the mayor and city council to impose the condition. Another application to alter the same condition shall not be submitted more than once every twelve (12) months, such interval to begin on the date of the final decision by the mayor and city council on said application to amend the condition.

2.

All other existing provisions of Sec. 22.1 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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1.

Sec. 22.1. – Initiation of amendments.

22.1.6. *Requirements for city applications.* The requirements of [section 23.2](#) do not apply to any application for amendment initiated by the zoning department staff, the planning commission or the mayor and city council, and such applications shall only contain such information as is required by the zoning administrator. City initiated map changes do not require that the city send letters to property owners or post signs on properties affected. Such notice is not required under the zoning procedures law and is not practical when the city changes large numbers of parcels at one (1) time. This is not applicable to multi-family or single-family residential zoning requirements in which O.C.G.A. § 36-66-4(h) is applicable, and the City shall comply with the requirements as specified therein.

2.

All other existing provisions of Sec. 22.1 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. - AMENDMENTS SEC. 22.1 – INITIATION OF AMENDMENTS is hereby amended by adding a new subsection 22.1.9. Multi-family and single-family zoning decisions as follows:

1.

Sec. 22.1. – Initiation of amendments.

22.1.9. Multi-family and single-family zoning decisions. Zoning decisions regarding multi-family uses of property and single-family residential, if applicable, shall comply with the requirements of O.C.G.A. § 36-66-4(h).

2.

All other existing provisions of Sec. 22.1 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____

JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. – AMENDMENTS. SECTION 22.3 PUBLIC NOTIFICATION. SUBSECTION 22.3.4. CITY EXEMPTIONS is hereby amended by deleting said subsection in its entirety and replacing as follows:

1.

22.3.4 *City exemptions and requirements.* The provisions of sections 22.3.2 and 22.3.3 shall not apply if the application is initiated by the zoning department staff, the planning commission or the mayor and city council. If appropriate, the requirements of O.C.G.A. § 36-66-5.1(h) shall be applicable for City initiated requests.

2.

All other existing provisions of Sec. 22.3 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____
SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. – AMENDMENTS. SECTION 22.6 ACTION BY THE MAYOR AND CITY COUNCIL SUBSECTION 22.6.1. PUBLIC HEARING. is hereby amended by deleting said subsection in its entirety and replacing as follows:

1.

Sec. 22.6. – Action by mayor and city council.

22.6.1. *Public hearing.* Before taking action on a proposed amendment and after receipt of the planning commission recommendations, the mayor and city council shall hold a public hearing on the proposed amendment made pursuant to this article, which shall be advertised as stated in section 22.3 and conducted pursuant to section 22.7, except as required by O.C.G.A. § 36-66-4(h), which requirements shall be followed therein.

2.

All other existing provisions of Sec. 22.6 not changed herein, shall remain as is

3.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. - AMENDMENTS SEC. 22.8. - APPEALS TO SUPERIOR COURT is hereby amended by deleting said section in its entirety and replacing as follows:

1.

Sec. 22.8. – Appeals and Stay.

(a) Appeals Recourse from a zoning decision of the City Council shall be in accordance with O.C.G.A. § 36-66-5.1(a)(1).

(b) Stay of proceedings are as provided for by O.C.G.A. § 36-66-5.1(d).

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____

JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. – AMENDMENTS. SECTION 22.9 STANDARDS FOR GOVERNING THE EXERCISE OF ZONING POWER. is hereby amended by deleting said section in its entirety and replacing as follows:

1.

Sec. 22.9. Standards for governing the exercise of zoning power.

(a) The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. § 36-66-5(b):

1. The existing land uses and zoning classification of nearby property;
2. The suitability of the subject property for the zoned purposes;
3. The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
4. Whether the subject property has a reasonable economic use as currently zoned;
5. Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
6. Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
7. Whether the zoning proposal is in conformity with the then current future development plan and community agenda of the comprehensive land use plan as currently adopted or as amended in the future;
8. Whether the zoning proposal will result in a use which will or could; adversely affect the environment, including, but not limited to, drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity;
9. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
10. 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 zoning proposal.

(b) Said standards shall be printed and available for distribution to the public at all planning commission meetings and city council meetings in which zoning decisions or the exercise of zoning powers are being considered.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

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MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXII. - AMENDMENTS is hereby amended by adding a new Sec. 22.13. – Multi-family and Single-family residential per O.C.G.A. § 36-66-4(h) as follows:

1.

Sec. 22.13. – Multi-family and single-family residential per O.C.G.A. § 36-66-4(h).

Multi-family and single-family residential zoning decisions in which O.C.G.A. § 36-66-4(h) is applicable, shall comply with the requirements for hearings, meetings, and notification as required by O.C.G.A. § 36-66-4(h).

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____

JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXIII. – SPECIAL USE PERMIT. SECTION 23.4 - APPEALS TO SUPERIOR COURT. is hereby amended by deleting said section in its entirety and replacing as follows:

1.

Sec. 23.4. – Appeals and stay.

(a) Appeal. Recourse from a decision by the mayor and city council in regard to a special use permit shall be as provided for by O.C.G.A. 36-66-5.1(a)(2) or as otherwise provided for by law.

(b) Stay. Stay of proceedings shall be provided for by O.C.G.A. 36-66-5.1(d).

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____
SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXIII. – SPECIAL USE PERMIT. SEC. 23.5 - REAPPLICATION is hereby amended by deleting said section in its entirety and replacing as follows:

1.

Sec. 23.5. – Reapplication.

An application for special use which has been denied shall not be resubmitted for a period of six (6) months.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXIII. – SPECIAL USE PERMIT. is hereby amended by adding a new Sec. 23.6. – Standards for governing the exercise of zoning power for special use permits as follows:

1.

Sec. 23.6. – Standards for governing the exercise of zoning power for special use permits.

(a) The following standards governing the exercise of the zoning power for special use permits are adopted in accordance with O.C.G.A. § 36-66-5(b):

1. The existing land uses and zoning classification of nearby property;
2. The suitability of the subject property for the zoned purposes;
3. The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
4. Whether the subject property has a reasonable economic use as currently zoned;
5. Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
6. Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
7. Whether the zoning proposal is in conformity with the then current future development plan and community agenda of the comprehensive land use plan as currently adopted or as amended in the future;
8. Whether the zoning proposal will result in a use which will or could; adversely affect the environment, including, but not limited to, drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity;
9. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
10. 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 zoning proposal.

(b) Said standards shall be printed and available for distribution to the public at all planning commission meetings and city council meetings in which zoning decisions or the exercise of zoning powers for special use permits are being considered.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

Ordinance No. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CARTERSVILLE OF CARTERSVILLE - CODE OF ORDINANCES CHAPTER 26 - ZONING ARTICLE XXIII. – SPECIAL USE PERMIT. is hereby amended by adding a new Sec. 23.7. – Certiorari and service. as follows:

1.

Sec. 23.7. – Certiorari and service.

23.7.1. Certificates. Authority to approve certiorari documents. In order to comply with O.C.G.A. § 36-66-5.1(c), the Mayor is authorized to issue certiorari bonds and certificate of costs, and other documents, upon confirmation with City staff that such approvals are appropriate.

23.7.2. Authority to accept service.

(a) For purposes of certiorari proceedings, the Mayor of the City of Cartersville and/or the Chairman of the Board of Zoning Appeals, as appropriate, is authorized to accept service on behalf of the City of Cartersville.

(b) The Mayor of the City of Cartersville is authorized to accept service of process on behalf of the City of Cartersville as opposite party.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

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FIRST READING: _____
SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK

House Bill 1405 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 52nd, Washburn of the 141st, Crowe of the 110th, Dreyer of the 59th, Paris of the 142nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local governments,
2 so as to revise "The Zoning Procedures Law"; to revise provisions related to judicial review
3 of zoning decisions; to revise definitions; to provide for requirements for zoning decisions
4 by boards or agencies using delegated powers; to provide additional notice and hearing
5 provisions for changes to zoning ordinances that revise single-family residential
6 classifications and definitions so as to authorize multifamily residential property uses; to
7 require review procedures for decisions made by boards or agencies using delegated powers;
8 to provide for judicial review of zoning decisions; to require certain designations relating to
9 appeals of quasi-judicial decisions; to provide for related matters; to provide for an effective
10 date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 36 of the Official Code of Georgia Annotated, relating to local governments, is
14 amended by revising Chapter 66, relating to zoning procedures, as follows:

15 style="text-align:center">"CHAPTER 66

H. B. 1405

16 36-66-1.

17 This chapter shall be known and may be cited as ~~'The Zoning~~ 'Zoning Procedures Law.'

18 36-66-2.

19 (a) While recognizing and confirming the authority of local governments to exercise
20 zoning power within their respective territorial boundaries, it is the intention of this chapter
21 to establish as state policy minimum procedures governing the exercise and means of
22 judicial review of the exercise of that power. The purpose of these minimum procedures
23 is to assure that due process is afforded to the general public when local governments
24 regulate the uses of property through the exercise of the zoning power. Nothing in this
25 chapter shall be construed to invalidate any zoning decision made by a local government
26 prior to ~~January 1, 1986~~ July 1, 2023, or to require a local government to exercise its
27 zoning power.

28 (b) Consistent with the minimum procedures required by this chapter, local governments
29 may:

30 (1) Provide by ordinance or resolution for such administrative officers, ~~bodies~~ boards,
31 or agencies as may be expedient for the efficient exercise of ~~their~~ delegated,
32 quasi-judicial zoning powers and to establish procedures and notice requirements for
33 hearings before such quasi-judicial officers, boards, or agencies that are consistent with
34 the minimum procedures provided for in this chapter to assure due process is afforded the
35 general public; and

36 (2) Provide by ordinance or resolution for procedures and requirements in addition to or
37 supplemental to those required by this chapter and, where so adopted, thereby establish
38 the minimum procedures for such local government's exercise of zoning powers.

39 36-66-3.

40 As used in this chapter, the term:

41 (1) 'Local government' means any county or municipality which exercises zoning power
42 within its territorial boundaries.

43 (1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency
44 appointed by a local government to exercise delegated, quasi-judicial zoning powers
45 including hearing appeals of administrative decisions by such officers, boards, or
46 agencies and hearing and rendering decisions on applications for variances, special
47 administrative permits, special exceptions, conditional use permits, or other similar
48 permits not enumerated herein as a zoning decision, pursuant to standards for the exercise
49 of such quasi-judicial authority adopted by a local government.

50 (2) 'Territorial boundaries' means, in the case of counties, the unincorporated areas
51 thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case
52 of municipalities, the area lying within the corporate limits thereof except any area
53 defined in paragraph (5.1) of Code Section 36-70-2.

54 (3) 'Zoning' means the power of local governments to provide within their respective
55 territorial boundaries for the zoning or districting of property for various uses and the
56 prohibition of other or different uses within such zones or districts and for the regulation
57 of development and the improvement of real estate within such zones or districts in
58 accordance with the uses of property for which such zones or districts were established.

59 (4) 'Zoning decision' means final legislative action by a local government which results
60 in:

61 (A) The adoption or repeal of a zoning ordinance;

62 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
63 zoning ordinance;

64 (C) The adoption or denial of an amendment to a zoning ordinance ~~which rezones to~~
65 rezone property from one zoning classification to another;

66 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal
67 local government ~~which zones to zone~~ zone property to be annexed into the municipality; ~~or~~

- 68 (E) The grant or denial of a permit relating to a special use of property;
- 69 (F) The grant or denial of a variance or conditions concurrent and in conjunction with
- 70 a decision pursuant to subparagraphs (C) or (E) of this paragraph.
- 71 (5) 'Zoning ordinance' means an ordinance or resolution of a local government
- 72 establishing procedures and zones or districts within its respective territorial boundaries
- 73 which regulate the uses and development standards of property within such zones or
- 74 districts. The term also includes the zoning map adopted in conjunction with a zoning
- 75 ordinance which shows the zones and districts and zoning classifications of property
- 76 therein.

77 36-66-4.

78 (a) A local government taking action resulting in a zoning decision shall provide for a

79 hearing on the proposed action. Where the proposed action includes any combination of

80 zoning decisions under subparagraphs (C), (E), or (F) of paragraph (4) of Code Section

81 36-66-3 for the same property, only one hearing shall be required under this Code Section.

82 At least 15 but not more than 45 days prior to the date of the hearing, the local government

83 shall cause to be published within a newspaper of general circulation within the territorial

84 boundaries of the local government a notice of the hearing. The notice shall state the time,

85 place, and purpose of the hearing.

86 (b) If a zoning decision of a local government is for the rezoning of property and the

87 rezoning is initiated by a party other than the local government, then:

88 (1) The notice, in addition to the requirements of subsection (a) of this Code section,

89 shall include the location of the property, the present zoning classification of the property,

90 and the proposed zoning classification of the property; and

91 (2) A sign containing information required by local ordinance or resolution shall be

92 placed in a conspicuous location on the property not less than 15 days prior to the date

93 of the hearing.

- 94 (c) If the zoning decision of a local government is for the rezoning of property and the
95 amendment to the zoning ordinance to accomplish the rezoning is defeated by the local
96 government, then the same property may not again be considered for rezoning until the
97 expiration of at least six months immediately following the defeat of the rezoning by the
98 local government.
- 99 (d) If the zoning is for property to be annexed into a municipality, then:
- 100 (1) Such municipal local government shall complete the procedures required by this
101 chapter for such zoning, except for the final vote of the municipal governing authority,
102 prior to adoption of the annexation ordinance or resolution or the effective date of any
103 local Act but no sooner than the date the notice of the proposed annexation is provided
104 to the governing authority of the county as required under Code Section 36-36-6;
- 105 (2) The hearing required by subsection (a) of this Code section shall be conducted prior
106 to the annexation of the subject property into the municipality;
- 107 (3) In addition to the other notice requirements of this Code section, the municipality
108 shall cause to be published within a newspaper of general circulation within the territorial
109 boundaries of the county wherein the property to be annexed is located a notice of the
110 hearing as required under the provisions of subsection (a) or (b), as applicable, of this
111 Code section and shall place a sign on the property when required by subsection (b) of
112 this Code section; and
- 113 (4) The zoning classification approved by the municipality following the hearing
114 required by this Code section shall become effective on the later of:
- 115 (A) The date the zoning is approved by the municipality;
- 116 (B) The date that the annexation becomes effective pursuant to Code Section 36-36-2;
- 117 or
- 118 (C) Where a county has interposed an objection pursuant to Code Section 36-36-11,
119 the date provided for in paragraph (8) of subsection (c) of said Code section.

120 (e) A qualified municipality into which property has been annexed may provide, by the
121 adoption of a zoning ordinance, that all annexed property shall be zoned by the
122 municipality, without further action, for the same use for which that property was zoned
123 immediately prior to such annexation. A qualified county which includes property which
124 has been deannexed by a municipality may provide, by the adoption of a zoning ordinance,
125 that all deannexed property shall be zoned by the county, without further action, for the
126 same use for which that property was zoned immediately prior to such deannexation. A
127 municipality shall be a qualified municipality only if the municipality and the county in
128 which is located the property annexed into such municipality have a common zoning
129 ordinance with respect to zoning classifications. A county shall be a qualified county only
130 if that county and the municipality in which was located the property deannexed have a
131 common zoning ordinance with respect to zoning classifications. A zoning ordinance
132 authorized by this subsection shall be adopted in compliance with the other provisions of
133 this chapter. The operation of such ordinance to zone property which is annexed or
134 deannexed shall not require any further action by the adopting municipality, adopting
135 county, or owner of the property annexed or deannexed. Property which is zoned pursuant
136 to this subsection may have such zoning classification changed upon compliance with the
137 other provisions of this chapter.

138 (f) When a proposed zoning decision relates to or will allow the location or relocation of
139 a halfway house, drug rehabilitation center, or other facility for treatment of drug
140 dependency, a public hearing shall be held on the proposed action. Such public hearing
141 shall be held at least six months and not more than nine months prior to the date of final
142 action on the zoning decision. The hearing required by this subsection shall be in addition
143 to any hearing required under subsection (a) of this Code section. The local government
144 shall give notice of such hearing by:

145 (1) Posting notice on the affected premises in the manner prescribed by subsection (b)
146 of this Code section; and

147 (2) Publishing in a newspaper of general circulation within the territorial boundaries of
148 the local government a notice of the hearing at least 15 days and not more than 45 days
149 prior to the date of the hearing.

150 Both the posted notice and the published notice shall include a prominent statement that
151 the proposed zoning decision relates to or will allow the location or relocation of a halfway
152 house, drug rehabilitation center, or other facility for treatment of drug dependency. The
153 published notice shall be at least six column inches in size and shall not be located in the
154 classified advertising section of the newspaper.

155 (g) A local government delegating decision-making power to a quasi-judicial officer,
156 board, or agency shall provide for a hearing on each proposed action described in
157 paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at
158 least 30 days prior to the quasi-judicial hearing, with such notice being made as provided
159 for in subsection (a) of this Code section and with additional notice being mailed to the
160 owner of the property that is the subject of the proposed action.

161 (h)(1) Notwithstanding any other provisions of this chapter to the contrary, when a
162 proposed zoning decision relates to an amendment of the zoning ordinance to revise one
163 or more zoning classifications or definitions relating to single-family residential uses of
164 property so as to authorize multifamily uses of property pursuant to such classification
165 or definitions, or to grant blanket permission, under certain or all circumstances, for
166 property owners to deviate from the existing zoning requirements of a single-family
167 residential zoning, such zoning decision must be adopted in the following manner:

168 (A) The zoning decision shall be adopted at two regular meetings of the local
169 government making the zoning decision, during a period of not less than 21 days apart;
170 and

171 (B) Prior to the first meeting provided for in subparagraph (A) of this paragraph, at
172 least two public hearings shall be held on the proposed action. Such public hearings
173 shall be held at least three months and not more than nine months prior to the date of

174 final action on the zoning decision. Furthermore, at least one of the public hearings
175 must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by
176 this paragraph shall be in addition to any hearing required under subsection (a) of this
177 Code section. The local government shall give notice of such hearing by:

178 (i) Posting notice on each affected premises in the manner prescribed by
179 subsection (b) of this Code section; provided, however, that when more than 500
180 parcels are affected, in which case posting notice is required every 500 feet in the
181 affected area; and

182 (ii) Publishing in a newspaper of general circulation within the territorial boundaries
183 of the local government a notice of each hearing at least 15 days and not more than 45
184 days prior to the date of the hearing.

185 Both the posted notice and the published notice shall include a prominent statement that
186 the proposed zoning decision relates to or will authorize multifamily uses or give blanket
187 permission to the property owner to deviate from the zoning requirements of a
188 single-family residential zoning of property in classification previously relating to
189 single-family residential uses. The published notice shall be at least nine column inches
190 in size and shall not be located in the classified advertising section of the newspaper. The
191 notice shall state that a copy of the proposed amendment is on file in the office of the
192 clerk or the recording officer of the local government and in the office of the clerk of the
193 superior court of the county of the legal situs of the local government for the purpose of
194 examination and inspection by the public. The local government shall furnish anyone,
195 upon written request, a copy of the proposed amendment, at no cost.

196 (2) The provisions of paragraph (1) of this subsection shall also apply to any zoning
197 decisions that provide for the abolition of all single-family residential zoning
198 classifications within the territorial boundaries of a local government or zoning decisions
199 that result in the rezoning of all property zoned for single-family residential uses within

200 the territorial boundaries of a local government to multifamily residential uses of
201 property.

202 (3) This subsection shall not apply to zoning decisions for the rezoning of property from
203 a single-family residential use of property to a multifamily residential use of property
204 when the rezoning is initiated by the owner or authorized agent of the owner of such
205 property.

206 36-66-5.

207 (a) Local governments shall adopt policies and procedures which govern calling and
208 conducting hearings required by Code Section 36-66-4, and printed copies of such policies
209 and procedures shall be available for distribution to the general public. Such policies and
210 procedures shall specify a minimum time period at hearings on proposed zoning decisions
211 or quasi-judicial decisions for presentation of data, evidence, and opinion by proponents
212 of each zoning decision and an equal minimum time period for presentation by opponents
213 of each proposed zoning decision, such minimum time period to be no less than ten
214 minutes per side.

215 (b) In addition to policies and procedures required by subsection (a) of this Code section,
216 each local government rendering a zoning decision shall adopt standards governing the
217 exercise of the zoning power, and such standards may include any factors which the local
218 government finds relevant in balancing the interest in promoting the public health, safety,
219 morality, or general welfare against the right to the unrestricted use of property. Such
220 standards shall be printed and copies thereof shall be available for distribution to the
221 general public.

222 (b.1) In addition to policies and procedures required by subsection (a) of this Code section,
223 each local government providing for a quasi-judicial officer's, board's, or agency's grant,
224 denial, or review of a quasi-judicial matter may adopt specific standards and criteria
225 governing the exercise of such quasi-judicial decision-making authority, and such standards

226 shall include the factors by which the local government directs the evaluation of a
227 quasi-judicial matter. Such standards shall be printed and copies thereof made available
228 for distribution to the general public.

229 (c) The policies and procedures required by subsection (a) of this Code section and the
230 adoption of standards required by subsection (b) and permitted by subsection (b.1) of this
231 Code section may shall be included in and adopted as part of the zoning ordinance. Prior
232 to the adoption of any zoning ordinance enacted on or after ~~January 1, 1986~~ July 1, 2022,
233 a local government shall conduct a public hearing on a proposed action which may be
234 advertised and held concurrent with the hearing required by subsection (a) of Code Section
235 36-66-4 for the adoption of a zoning ordinance. The provisions of subsection (a) of Code
236 Section 36-66-4 relating to notices of public hearings for the purposes of that subsection
237 shall also apply to public hearings required by this subsection.

238 36-66-5.1.

239 (a) To ensure that the general public is afforded due process in an orderly way to petition
240 the courts for review of a local government's exercise of zoning, administrative, or
241 quasi-judicial powers as guaranteed by Article I, Section I, Paragraphs IX and XII of the
242 Constitution, the General Assembly, pursuant to its authority under Article VI, Section IV,
243 Paragraph I of the Constitution, provides the following mechanism by which each of the
244 powers described in this chapter may be reviewed by the superior court of the county
245 wherein such property is located:

246 (1) Zoning decisions as described in this chapter, being legislative in nature, shall be
247 subject to direct constitutional challenge regarding the validity of maintaining the existing
248 zoning on the subject property or the validity of conditions or an interim zoning category
249 other than what was requested in the superior court pursuant to its original jurisdiction
250 over declaratory judgments pursuant to Chapter 4 of Title 9 and equity jurisdiction under
251 Title 23. Such challenges shall be by way of a de novo review by the superior court

252 wherein such review brings up the whole record from the local government and all
253 competent evidence shall be admissible in the trial thereof, whether adduced in a local
254 government process or not and employing the presumption that a governmental zoning
255 decision is valid and can be overcome substantively by a petitioner showing by clear and
256 convincing evidence that the zoning classification is a significant detriment to the
257 petitioner and is insubstantially related to the public health, safety, morality, or general
258 welfare; or

259 (2) Quasi-judicial decisions as described in this chapter and zoning decisions under
260 subparagraph (E) of paragraph (4) of Code Section 36-66-3 shall be subject to appellate
261 review by the superior court pursuant to its appellate jurisdiction from a lower judicatory
262 body and shall be brought by way of a petition for such review as provided for in Title 5.
263 Such matters shall be reviewed on the record which shall be brought to the superior court
264 as provided in Title 5.

265 (b) All such challenges or appeals shall be brought within 30 days of the written decision
266 of the challenged or appealed action.

267 (c) To ensure that the citizens of this state are not unnecessarily burdened by the review
268 process as a mechanism of appeal, local governments shall designate by ordinance or
269 resolution:

270 (1) The officer of the quasi-judicial board or agency who shall have authority, without
271 additional board or agency action, to approve or issue any form or certificate necessary
272 to perfect the petition described in Title 5 for review of lower judicatory bodies and upon
273 whom service of such petition may be effected or accepted on behalf of the lower
274 judicatory board or agency, during normal business hours, at the regular offices of the
275 local government; and

276 (2) The elected official or his or designee who shall have authority to accept service and
277 upon whom service of an appeal of a quasi-judicial decision may be effected or accepted

278 on behalf of the local governing authority, during normal business hours, at the regular
279 offices of the local government.

280 (d) An appeal or challenge by an opponent filed pursuant to this chapter shall stay all legal
281 proceedings in furtherance of the action appealed from or challenged, unless the local
282 government, officer, board, or agency from which or from whom the appeal or challenge
283 is taken certifies that, by reason of the facts stated in the certificate, a stay would cause
284 imminent peril to life or property. In such actions, the applicant for the zoning decision or
285 the quasi-judicial decision shall be a necessary party and shall be named as a defendant in
286 the action and served in accordance with the requirements of Title 5 or Title 9, as
287 appropriate.

288 36-66-6.

289 (a) In any local government which has established a planning department or other similar
290 agency charged with the duty of reviewing zoning proposals, such planning department or
291 other agency shall, with respect to each proposed zoning decision involving land that is
292 adjacent to or within 3,000 feet of any military base or military installation or within
293 the 3,000 foot Clear Zone and Accident Prevention Zones Numbers I and II as prescribed
294 in the definition of an Air Installation Compatible Use Zone of a military airport,
295 investigate and make a recommendation with respect to each of the matters enumerated in
296 subsection (b) of this Code section, in addition to any other duties with which the planning
297 department or agency is charged by the local government. The planning department or
298 other agency shall request from the commander of such military base, military installation,
299 or military airport a written recommendation and supporting facts relating to the use of the
300 land being considered in the proposed zoning decision at least 30 days prior to the hearing
301 required by subsection (a) of Code Section 36-66-4. If the base commander does not
302 submit a response to such request by the date of the public hearing, there shall be a
303 presumption that the proposed zoning decision will not have any adverse effect relative to

304 the matters specified in subsection (b) of this Code section. Any such information provided
305 shall become a part of the public record.

306 (b) The matters with which the planning department or agency shall be required to make
307 such investigation and recommendation shall be:

308 (1) Whether the zoning proposal will permit a use that is suitable in view of the use of
309 adjacent or nearby property within 3,000 feet of a military base, military installation, or
310 military airport;

311 (2) Whether the zoning proposal will adversely affect the existing use or usability of
312 nearby property within 3,000 feet of a military base, military installation, or military
313 airport;

314 (3) Whether the property to be affected by the zoning proposal has a reasonable
315 economic use as currently zoned;

316 (4) Whether the zoning proposal will result in a use which will or could cause a safety
317 concern with respect to excessive or burdensome use of existing streets, transportation
318 facilities, utilities, or schools due to the use of nearby property as a military base, military
319 installation, or military airport;

320 (5) If the local government has an adopted land use plan, whether the zoning proposal
321 is in conformity with the policy and intent of the land use plan; and

322 (6) Whether there are other existing or changing conditions affecting the use of the
323 nearby property as a military base, military installation, or military airport which give
324 supporting grounds for either approval or disapproval of the zoning proposal."

325

SECTION 2.

326 This Act shall become effective on July 1, 2022, and shall apply to all zoning and
327 quasi-judicial decisions occurring on and after that date; however, no zoning or quasi-judicial
328 decision prior to July 1, 2023, shall be rendered invalid or void because of a local
329 government's failure to implement language in their ordinances accomplishing the provisions
330 of Code Section 36-66-5.1.

331

SECTION 3.

332 All laws and parts of laws in conflict with this Act are repealed.