

CITY OF HAMPTON

STATE OF GEORGIA

ORDINANCE NO. 2023-07

AN ORDINANCE TO AMEND THE CERTAIN SECTIONS OF APPENDIX A – ZONING OF THE CODE OF ORDINANCES OF THE CITY OF HAMPTON, GEORGIA; TO AMEND ARTICLE 2 DEFINITIONS, SECTION 2-1 DEFINITIONS; TO AMEND ARTICLE 5 RESIDENTIAL DISTRICTS, SECTION 5-11 ALLOWED USES; TO AMEND ARTICLE 12 ADMINISTRATION, SECTION 12-3 VARIANCES; TO AMEND ARTICLE 12 ADMINISTRATION, SECTION 12-4 ADMINISTRATIVE VARIANCES; TO AMEND ARTICLE 12 ADMINISTRATION, SECTION 12-5 CONDITIONAL USES; TO AMEND ARTICLE 12 ADMINISTRATION, SECTION 12-7 REZONING REQUESTS AND TEXT AMENDMENTS; TO AMEND ARTICLE 12 ADMINISTRATION, SECTION 12-9 APPEALS OF ADMINISTRATIVE DECISIONS; TO AMEND ARTICLE 12 ADMINISTRATION TO ADD A SECTION 12-10 APPEALS; TO PROVIDE FOR CODIFICATION; TO PROVIDE SEVERABILITY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

THE COUNCIL OF THE CITY OF HAMPTON, GEORGIA HEREBY ORDAINS:

Section 1. That the certain sections and portions of APPENDIX A – ZONING be amended so that as amended the sections referenced herein of APPENDIX A – ZONING shall read as it appears in **Exhibit “A”**, attached hereto and incorporated by reference.

Section 2. That the Zoning Map of the City of Hampton, as described on file with the City of Hampton and incorporated by reference, be amended and adopted, if necessary, to provide for and be congruent with the amendments to the zoning ordinance existing at Appendix A of the Code of Ordinances.

Section 3. That a public hearing was held in accordance with the State’s Zoning Procedures Law, codified at O.C.G.A. § 36-66-4.

Section 4. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 5. That this Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Hampton.

Section 6. That this Ordinance shall take effect immediately upon its adoption. All Ordinances in conflict herewith are expressly repealed. It is the intention of the governing body,

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 Hampton, Georgia, and the sections of this Ordinance may be renumbered, if necessary, to accomplish such intention.

Section 7.


- a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.
- b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause and phrase of this Ordinance is severable from every other, section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- c. In the event that any phrase, clause, sentence, paragraph or Section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 8. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.


Section 9. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED, this 13th day of June, 2023.

CITY OF HAMPTON, GEORGIA


ANN TARPLEY, Mayor

ATTEST:


RASHIDA FAIRLEY, City Clerk

APPROVED AS TO FORM:



L'ERIN BARNES WIGGINS, City Attorney

First Reading: May 9, 2023

Second Reading/
Adoption: June 13, 2023

EXHIBIT "A"
(Zoning code sections to be amended)

- **Amend Article 2 Definitions, Section 2-1 Definitions to add definition for "quasi-judicial officers, boards, or agencies" and "zoning decision".**

Section 2-1. - Definitions

Quasi-judicial officers, boards, or agencies shall have the same meaning as defined in O.C.G.A. § 36-6-3.

Zoning decision shall have the same meaning as defined in O.C.G.A. § 36-6-3.

- **Amend Article 5 Residential Districts, Section 5-11 Allowed Uses to add a new subsection (D) so as amended the new Section 5.11(D) reads as follows.**

Sec. 5-11. – Allowed Uses.

- D. When a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision must be adopted in accordance with O.C.G.A. § 36-66-4(h).

- **Amend Article 12 Administration, Section 12-3 Variances in its entirety so that as amended the new Section 12-3 reads as follows.**

Sec. 12-3. Variances.

- A. For all variances, including those in conjunction with use permits and rezonings but excluding administrative variances in Section 12-4 of this Article, upon application made to the Zoning Administrator, the City Council, following a public hearing, is authorized to consider such variances from the terms of this Appendix as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Appendix will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Appendix shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings or structures in the same or in other districts shall not constitute a reason for a variance. A variance may be granted in an individual case of unnecessary hardship upon a finding by the City Council that all the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
 2. A literal interpretation of the provisions of this Appendix would deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
 3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
 4. The requested variance will be in harmony with the purpose and intent of this Appendix, the specific zoning of the property and the land use plan and will not be injurious to the general welfare of the community.
 5. The special circumstances or justifications for the variance are not the result of self-imposed actions or misfortunes of the applicant.
 6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
 7. The variance is not a request to permit a use of land, buildings or structures which is not permitted by right in the district involved.
- B. The City Council shall hold a public hearing in accordance with Section 12-9 – Public Hearing and Notice Procedures.
- C. Variances approved in accordance with this section shall be done so by ordinance.
- D. Should the City Council deny a variance request on a parcel(s) of land, then the same request may not be considered until the expiration of at least 12 months from the date of denial.
- E. All requests by private groups, individuals, businesses and other nonpublic organizations for variances shall be accompanied by a filing fee which is maintained in the office of the Zoning Administrator.
- F. Any person or persons, jointly or severally, aggrieved by a variance decision may appeal said decision in accordance with O.C.G.A. § 36-66-5.1.
- **Amend Article 12 Administration, Section 12-4 Administrative Variances in its entirety so that as amended the new Section 12-4 reads as follows.**

Sec. 12-4. Administrative Variances.

- A. The Zoning Administrator may modify the following standards during development review without a public hearing or City Council approval. Any other modification beyond those listed below must be considered by the Hampton City Council as a variance under the provisions of Section 12-3.
1. Front setback or setback adjacent to public street: Variance not to exceed five feet.

2. Side setback: Variance not to exceed two feet.
 3. Rear setback: Variance not to exceed four feet.
 4. Height of building: Variance not to exceed five feet.
 5. Converted garages or carports meeting the requirements of Section 3-26.
 6. Residential and commercial design standards.
 7. Other requirements within this Ordinance specifically stating that an administrative variance is allowed.
- B. The applicant shall demonstrate, and the Zoning Administrator shall find, that all of the following criteria are present when approving a request for an administrative variance:
1. There are clear and compelling reasons that are not purely financial demonstrating that the required standard cannot be met.
 2. The modification is the minimum amount necessary to meet the clear and compelling reasons identified above.
 3. The requested adjustment will not contravene the public interest or negatively impact adjoining properties.
- C. All requests by private groups, individuals, businesses and other nonpublic organizations for administrative variances shall be accompanied by a filing fee which is maintained in the office of the Zoning Administrator.
- D. Appeals of the decision of the Zoning Administrator may be made to Hampton City Council within 30 days of notification of the administrative decision.
1. When it is alleged that an error has been made by the administrative staff when exercising its authority under this section or when an administrative decision aggrieves any person, an appeal to the City Council may be made within 30 days of receipt of notification of the decision.
 2. An appeal may be submitted to the Zoning Administrator in writing for the City Council's review. The City Council shall establish a reasonable time for the hearing of the appeal no more than 45 days from the date of receipt of the appeal. Due notice shall also be provided to the parties in interest. The City Council shall decide the appeal within 15 days after the hearing. Any party may appear in person or by agent or by attorney and offer testimony or present opinions by expert witnesses qualified in the subject to which they are testifying.
 3. Any person or persons, jointly or severally, aggrieved by the City Council's decision may appeal said decision in accordance with O.C.G.A. § 36-66-5.1.

- **Amend Article 12 Administration, Section 12-5 Conditional Uses in its entirety so that as amended Section 12-5 reads as follows.**

Sec. 12-5. Conditional Uses.

- A. The following standards and guidelines shall apply to all conditional use requests as permitted in the applicable zoning districts.
- B. An application shall be submitted to the Zoning Administrator for technical review. A site plan reflecting compliance with all appropriate provisions of this Appendix shall accompany the application. The Zoning Administrator and/or the City Council may require additional information necessary to evaluate the application. An application is not considered accepted until all required information has been provided.
- C. Following a public hearing, the City Council shall consider all of the following prior to making a decision on any conditional use:
 1. The report and recommendation submitted by the City of Hampton's Community Development Department.
 2. Whether all specific requirements of this Appendix relative to consideration of a conditional use have been met.
 3. The impact the proposed use may have on traffic and/or the adverse effect it may cause to neighboring properties.
 4. The physical characteristics of the site and its suitability for the proposed request. The elements of topography, drainage, size and shape of the land(s) should be part of the City Council's decision-making process.
 5. The adequacy and availability of public infrastructure (water, sewer, roads, etc.) to serve the request.
 6. Whether the applicant has agreed to any specific conditions that will enhance his/her request, protect the public interest, and assure the continued beneficial use of nearby properties.
 7. Whether the request will further or support the goals and objectives of the City of Hampton's Comprehensive plan, protect the public interest, and assure the continued beneficial use of nearby properties.
- D. The City Council shall hold a public hearing in accordance with Section 12-9 – Public Hearing and Notice Procedures.
- E. Conditional Uses approved in accordance with this section shall be done so by ordinance.
- F. All requests by private groups, individuals, businesses and other nonpublic organizations for variances shall be accompanied by a filing fee which is maintained in the office of the Zoning Administrator.

- G. Should the City Council deny a request for conditional use on a parcel(s) of land, then the same request may not be considered until the expiration of at least 12 months from the date of denial.
- H. Upon discovery that the operation of the conditional use has or had ceased for a period of 365 days or more and the owner of the property has not requested voluntary termination of the conditional use, the Zoning Administrator shall forward a report to City Council which may recommend that action be taken to remove the conditional use permit from the property through a City initiated zoning action.
- I. Any person or persons, jointly or severally, aggrieved by the City Council's decision may appeal said decision in accordance with O.C.G.A. § 36-66-5.1.

- **Amend Article 12 Administration, Section 12-7 Rezoning Requests and Text Amendments in its entirety so that as amended Section 12-7 reads as follows.**

Sec. 12-7. Rezoning Requests and Text Amendments.

- A. An application for a rezoning of property shall be considered a simultaneous request for an amendment to the Official City Zoning Map.
- B. A request for rezoning, amendment to the zoning map, or amendment to the text of the Zoning Ordinance may be proposed to the City Council by any public agency or department of the City of Hampton, Georgia.
- C. Applications for rezoning or change of zoning conditions may also be submitted by an individual with 51 or more percent ownership in fee simple of the subject property being petitioned for rezoning, or their legal agent authorized in writing over the owner's signature.
- D. All requests by private groups, individuals, businesses and other nonpublic organizations for rezoning or change of zoning conditions shall be accompanied by a filing fee which is maintained in the office of the Zoning Administrator.
- E. Applications for rezonings, except those initiated by Hampton City Council, must contain the following:
 - 1. A completed and signed copy of the application.
 - 2. A copy of any proposed restrictive covenants to be placed upon the property which is subject to the application.
 - 3. A site plan representing information on the location, extent and type of proposed development, which may include, depending upon the type of development, the following minimum types of information:
 - i. Correct scale and north arrow.
 - ii. The present zoning classification of all adjacent parcels.

- iii. The location of the parcel relative to existing or proposed public streets.
- iv. Required setbacks for the zoning district requested.
- v. Topographic information sufficient to show elevation and drainage conditions of the land.
- vi. Existing conditions or improvements on the property.
- vii. The location and extent of required buffer areas, including the extent of natural vegetation or fences as required.
- viii. Proposed lot layout of the property if it is to be a subdivision for residential, commercial or industrial development, with required setbacks and buffer areas shown.
- ix. Commercial or industrial development shall also indicate the location and dimensions of proposed buildings, parking and loading areas, driveways and storage areas.
- x. Report from the Henry County Health Department and the Henry County Water and Sewerage Authority and/or (as applicable) the City utility department.
- xi. The Zoning Administrator may require additional information, or information different from the above, depending upon the type of development, to properly evaluate the application.

F. All proposed amendments to this Appendix, rezonings or changes of zoning conditions shall be transmitted by the City of Hampton Community Development Director to the City of Hampton City Council for review. The City of Hampton City Council shall study the need and justification of the following facts:

- 1. The possible effects of the proposed amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community.
- 2. The relation that the proposed amendment bears to the purpose of the overall zoning scheme with due consideration given to whether or not the proposed amendment will help carry out the purposes of this Appendix.
- 3. Consistency with the Comprehensive Plan.
- 4. Potential impact on infrastructure including water and sewerage systems.
- 5. Impact on adjacent thoroughfares and pedestrian and vehicular circulation and traffic volumes.
- 6. Impact upon adjacent property owners.
- 7. Ability of the subject land to be developed as it is presently zoned.

8. Physical conditions of the site relative to its capability to be developed as requested, including topography, drainage, access, and size and shape of the property.
 9. Merits of the requested amendment relative to any other guidelines and policies for development which the City Council may use in furthering the objectives of the land use plan.
 10. An approval of rezoning does not incorporate plan approval. For plan submittal, review, and approval process see City of Hampton Code of Ordinances. Appendix B - Subdivisions. Article 3. Procedure.
- G. After completing a study of the proposed amendment, the City of Hampton Community Development Department shall submit their recommendations and report to the City Council. These recommendations shall be of an advisory nature and shall not be binding on the City Council.
- H. In making a decision, following a public hearing, the City of Hampton City Council may approve, approve with conditions, or deny.
- I. Conditional zoning. In deciding upon any application for zoning map amendment or special use permit, the Hampton City Council may, on their own motion or upon the suggestion of the applicant, grant the application subject to any of the following conditions. The applicant or any successor in title may construct only those uses agreed upon as conditions and only in such a manner as approved by the Hampton City Council. The applicant or any successor in title is not vested by right to a depicted concept design or layout but rather the uses agreed upon as conditions approved by the Hampton City Council. Any zoning map amendment which is adopted with conditions shall be indicated on the Official Zoning Map. The property shall be indicated on the Official Zoning Map with the suffix "C" to indicate that the property has been rezoned with conditions. Such conditions shall remain imposed upon the property until removed or modified by the City Council.
1. Such conditions deemed necessary to promote and protect the health, safety, and general welfare.
 2. Such conditions deemed necessary to protect neighboring properties and to lessen any potentially adverse effects of the zoning change.
 3. Such conditions set forth, but not limited to, the following:
 - i. Setback requirements from any lot line;
 - ii. Street network design and street block layout;
 - iii. Provisions contained within the Master Plan for Greenways and Trails in Hampton;
 - iv. Requirement of additional professional certified studies including but not limited to traffic analysis, environmental analysis, economic and market analysis, etc.

- v. Specified or prohibited locations for buildings, parking, loading or storage areas;
 - vi. Restrictions on land use activities to be permitted;
 - vii. Maximum building dimensions and height;
 - viii. Landscaping or planted area which may include the location, type and maintenance of plant materials within a designated buffer area;
 - ix. Fences, walls, earth berms, or other landscape buffer provisions or protective measures;
 - x. Preservation of existing trees and vegetation;
 - xi. Special conditions to eliminate or reduce undesirable views, light, glare, dust or odor;
 - xii. Hours of operation;
 - xiii. Architectural details to be compatible with existing buildings in the area;
 - xiv. Adherence to specific concept plans as adopted;
 - xv. Any other requirements that the City Council may deem appropriate and necessary for the protection of public health and welfare.
- J. Prior to a final vote being taken on any application for which conditions shall be imposed, such conditions shall be made a part of the motion to approve. If the applicant finds such conditions to be unacceptable, they may, at the time before the final vote, withdraw the application. Such withdrawal shall not enable the applicant to refile the same request for the same property until at least 12 months have elapsed from the date of withdrawal.
- K. If the decision of the City Council is to deny the request for rezoning or change of zoning conditions, then the same property may not again be considered for rezoning or change of zoning conditions, until the expiration of at least 12 months immediately following the defeat of the request by the City Council.
- L. Requirements for amendments to the City of Hampton Code of Ordinances. This City of Hampton Code of Ordinances may be amended by the City of Hampton City Council on its own motion or by the initiation of the Community Development Department. Otherwise, a complete application packet shall be required as described below:
- 1. An application to amend the text of the City of Hampton Code of Ordinances shall be submitted on forms provided by the City of Hampton Community Development Department.
 - 2. The application shall include the following information:
 - i. Identification of the specific provision proposed for amendment;
 - ii. The proposed modifications in a strikethrough and underline format;

- iii. A detailed explanation of the rationale and justification for the requested amendment;
 - iv. A detailed explanation of the potential impacts of the modification on the development of the City of Hampton;
- 3. The Community Development Department shall prepare a staff report analyzing the proposed amendment and recommend approval, denial, or approval with modifications. The staff report shall address the following issues:
 - i. Consistency of the amendment with the comprehensive plan.
 - ii. Potential impacts on the character and quality of development in the City of Hampton and any affected zoning districts.
 - iii. Potential impacts on the provision of infrastructure and improvements.
 - iv. The merits of the proposed amendments relative to any guidelines, policies, or programs adopted in furtherance of the comprehensive plan.
- 4. The City of Hampton City Council shall consider the proposed amendment to the City of Hampton Code of Ordinances at a public hearing, according to the procedures.

The City of Hampton City Council shall evaluate the proposed amendment, considering the issues and recommendations contained in the City of Hampton Community Development Department staff report.

The City of Hampton City Council shall make a decision to approve, approve with further modifications, or deny.

M. Requirements for amendment to the comprehensive plan. The comprehensive plan may be amended by the City of Hampton City Council on its own motion. Otherwise, a complete application packet shall be required as described below.

- 1. An application to amend the text or maps of the City of Hampton Comprehensive Plan shall be submitted on forms provided by the City of Hampton Community Development Department.
- 2. The application shall include the following information:
 - i. Identification of the specific provision proposed for amendment.
 - ii. The proposed modifications in a strikethrough and underline format.
 - iii. A detailed explanation of the rationale and justification for the requested amendment.
 - iv. A detailed explanation of the potential impacts of the modification on the development of the City of Hampton.
- 3. The Director of Community Development shall prepare a staff report analyzing the proposed amendment and recommend approval, denial, or approval with modifications.

4. The City of Hampton City Council shall consider the proposed amendment to the City of Hampton Comprehensive Plan at a public hearing.
 - i. The City of Hampton City Council shall evaluate the proposed amendment, considering the issues and recommendations contained in the staff report.
 - ii. The City of Hampton City Council shall approve, approve with further modifications, or deny.
- **Amend Article 12 Administration, Section 12-9 Appeals of an Administrative Decisions in its entirety so that as amended Section 12-9 including the title reads as follows.**

Sec. 12-9. Public Hearings and Notice Procedures.

- A. Public hearings. If the City Council is taking action resulting in a zoning decision, it shall provide for a hearing on the proposed amendment for the purpose of receiving and considering public comment on the merits of the proposed amendment.
- B. The following rules of procedure shall govern the public hearing before the City Council:
 1. Each applicant or applicant's agent shall appear before the Council, identify themselves by name, address, and whether they are the owner or an agent for the owner.
 2. Each applicant or other interested party who provides the Council with documents shall have each document numbered and shall identify each document and each such document submitted shall be made a part of the official record of the hearing.
 3. Each applicant shall have 15 minutes to present facts pertinent to the application. An applicant may have additional time to address the Council if the applicant notifies the City Clerk prior to the start of the public hearing that applicant needs additional time. The additional time shall be limited to 15 minutes for the applicant.
 4. Each person in support of or opposition to rezoning of property and amendment to the Zoning Ordinance shall have 5 minutes to address the Council and shall provide the City Clerk with name and address; however, the total time for all interested parties in support or opposition shall not exceed 30 minutes unless further time is granted by City Council.
 5. At the conclusion of the hearing, the City Council shall announce its decision and direct the Zoning Administrator to notify the applicant in writing of the Council's decision. The Council's decision shall immediately be entered on the minutes and made a part of the record.
- C. Notification of hearing. At least 15, but not more than 45 days prior to the date of the hearing, the Zoning Administrator shall cause to be published within a newspaper of

general circulation within the City and Henry County a notice of the hearing. The notice shall state the time, place and purpose of the hearing.

- D. If a zoning decision is for the rezoning of property and the rezoning is initiated by a party other than city officials or a city department then:
1. The notice, in addition to the foregoing requirements, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and
 2. A sign containing information required by this Appendix shall be placed in a conspicuous location on the property not less than 15 days prior or more than 45 days prior to the date of the hearing.
 3. If the property proposed for rezoning does not have frontage on a public street, then the sign may be posted on the right-of-way of the nearest public street which provides access to the site. No public hearing may be held by the City Council until said sign(s) have been posted for at least 15 days. Said signs shall remain posted until final action has been taken by the City Council.

- **Amend Article 12 Administration to add a Section 12-10 Appeals so that as added 12-10 Appeals shall read as follows.**

Sec. 12-9. – Appeals.

Any person or persons, jointly or severally, aggrieved by a City Council's decision may appeal said decision in accordance with O.C.G.A. § 36-66-5.1.