

**AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF TUCKER, GEORGIA FOR THE PURPOSE OF AMENDING THE TUCKER CODE CHAPTER 46 ZONING TO BRING SAID CODE INTO CONFORMITY WITH STATE LAW; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**SECTION ONE**

Division 2 of Article VII of Chapter 46 is hereby amended by revising Section 46-1526 to read as follows:

**Sec. 46-1526. - Public hearings.**

(a) *Zoning decisions.* The term "zoning decision" is defined in article IX of this chapter by reference to the definition of "zoning decision" set forth in state law, O.C.G.A. § 36-66-3, as it now exists and may be amended hereafter.

(b) *Zoning decisions initiated by the city.* For any zoning decision initiated by the city, other than those identified in Section 46-1527, at least 15 but not more than 45 days prior to the date of the public hearing before the mayor and city council, the city shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city, a notice of the hearing. The notice shall state the date, time, place, and purpose of the hearing.

(c) *Zoning decisions, appeals to the zoning board of appeals, variances, extensions of special land use permits, and major modifications of conditions initiated by a party other than the city.* For any zoning decision, appeal to the zoning board of appeals, variance, extension of special land use permits, or major modification of conditions initiated by a party other than the city, notice of the public hearing shall be provided as follows:

(1) Written notice of each public hearing shall state the nature of the proposed change, and the date, time, place, and purpose of the public hearing before either the planning commission; or the zoning board of appeals and shall be mailed by first class mail by the planning and zoning director to the owners of the subject property and all owners of property within 500 feet of the boundaries adjoining the subject property, as such property owners are listed on the records of the county tax commissioner, at least 30 days prior to said public hearing. For any hearing before the mayor and city council, the notice of each public hearing shall state the nature of the proposed change, and the date, time, place, and purpose of the public hearing and shall be mailed by first class mail by the planning and zoning director to the owners of the subject property and all owners of property within 500 feet of the boundaries adjoining the subject property, as such property owners are listed on the records of the county tax commissioner, at least 15 days prior to said public hearing.

(2) Signs shall be posted on the subject property at least 15 days prior to the public hearing before the mayor and city council, the planning commission or the zoning board of appeals. The required information on each sign shall be as provided in O.C.G.A. § 36-66-1 et seq., as it now exists and may be amended hereafter. At least one sign shall be posted on each street on which the subject property has frontage in a conspicuous location within ten feet of the right-of-way. One additional sign shall be posted for each additional 500 feet of frontage or fraction thereof in excess of 500 feet of frontage on each street on which the subject property has frontage. The applicant shall pay a sign fee, in an amount to be established by the mayor and city council, to the planning and zoning department.

(3) One notice sign may serve both the application for an amendment to the official zoning map and/or the application for a special land use permit, as long as the sign states the relevant information for all hearings relating to those actions.

(4) A dated photograph of each sign shall be submitted by the applicant to the planning and zoning director as evidence of its proper posting.

(5) The city shall cause a notice of each public hearing regarding a proposed zoning decision to be published in a newspaper of general circulation within the city at least 15 days and not more than 45 days prior to a public hearing before the mayor and council. The city shall cause a notice of a public hearing before the planning commission or the zoning board of appeals to be published in a newspaper of general circulation within the city at least 30 and not more than 45 days prior to the public hearing. The notice shall include the date, time, place, and purpose of the hearing, the address of the property, the present zoning classification of the property, the proposed zoning classification of the property, the nature of the variance sought, and the proposed special land use, as applicable.

(d) *Written recommendations.* Staff's analysis and written recommendations shall be available in the planning and zoning department and on the departmental website prior to any public meeting held by the zoning board of appeals, the planning commission or the mayor and city council.

(e) *Presentation.* After the public meeting is opened, staff shall make a presentation of the item, after which the chair of the meeting may ask questions of the staff or other city representative providing the report or recommendations.

(1) After presentation by staff, the applicant or those in support of the item shall receive a time period, up to the entire allotment of ten-minutes to present their case. If a large number of people wish to speak, it may be advisable to designate a spokesperson to make the presentation. Any member of the council/commission/board, upon recognition by the chair, may ask questions of the person. The period of questions shall not be deducted from the ten-minutes period. The city shall not be obligated to provide the full ten-minute period if it is not elected to use that much time.

(2) Next, the chair shall call for a show of hands of those persons who wish to appear in opposition. Opposition shall be granted a time period of ten minutes at the public hearing to

present data. Evidence and opinions. If a large number of people wish to speak, it may be advisable to designate a spokesperson to make the presentation. The city shall not be obligated to provide the full ten-minute period to the opponents if they elect not to use that much time. Any member of the council/commission/board, upon recognition by the chair, may ask questions of any person giving public comment. The period of questions shall not be deducted from the ten-minute period.

(3) After completion of the procedure, the chair will indicate that the public hearing is closed.

## **SECTION TWO**

Division 2 of Article VII of Chapter 46 is hereby amended by adding a new Section 46-1527 to read as follows:

### **Sec. 46-1527 – Public hearings related to city initiated zoning decisions related to revising single-family residential uses to allow for multi-family residential uses.**

When a proposed zoning decision initiated by the city 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 or for abolition of all single-family residential zoning classifications within the territorial boundaries of the city or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of the city to multifamily residential uses of property, such zoning decision must be adopted in the following manner:

(a) The zoning decision shall be adopted at two regular meetings of the city making the zoning decision, during a period of not less than 21 days apart; and

(b) Prior to the first meeting provided for in subparagraph (a) of this section, at least two public hearings shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under Section 46-1526. The city shall give notice of such hearing by:

(1) Posting notice on each affected premises in the manner prescribed by Section 46-1526; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and

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

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice shall be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the city and in the office of the Clerk of the Superior Court of DeKalb County for the purpose of examination and inspection by the public. The city shall furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

### **SECTION THREE**

Division 4 of Article VII of Chapter 46 is hereby amended by revising Section 46-1598 to read as follows:

#### **Sec. 46-1598. - Appeals of decisions of the city council.**

All appeals of all final zoning decisions of the mayor and city council under the provisions of this division shall be as follows:

(1) Any person aggrieved by a final decision of the mayor and city council on an amendment to the zoning ordinance which rezones property from one zoning classification to another or which changes zoning conditions, or which denies any such ordinances may seek review of such decision by petitioning the superior court of the county as provided for in O.C.G.A. Section 36-66-5.1(a)(1), setting forth plainly the alleged errors. Such petition shall be filed within 30 days after the final decision of the board is rendered.

(2) Any person aggrieved by a final decision of the mayor and city council on a special land use permit may seek review of such decision by petitioning the superior court of the county pursuant to Title 5 of the O.C.G.A. plainly setting forth the alleged errors. Such petition shall be filed within 30 days after the final decision of the board is rendered.

### **SECTION FOUR**

Division 5 of Article VII of Chapter 46 is hereby amended by revising Section 46-1638 to read as follows:

#### **Sec. 46-1638. - Appeals of decisions of the zoning board of appeals.**

All appeals of all final decisions of the zoning board of appeals under the provisions of this division shall be as follows: Only persons aggrieved by a final decision of the zoning board of appeals may seek review of such decision by petitioning the superior court of the county

pursuant to Title 5 of the O.C.G.A., setting forth plainly the alleged errors. Such petition shall be filed within 30 days after the final decision of the zoning board of appeals is rendered.

#### **SECTION FIVE**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

#### **SECTION SIX**

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

#### **SECTION SEVEN**

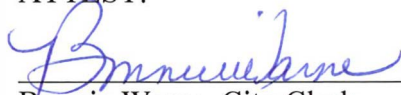
This ordinance shall become effective July 1, 2023.

**SO ORDAINED, this 12th day of June 2023.**

Approved:

  
\_\_\_\_\_  
Frank Auman, Mayor  
City of Tucker

ATTEST:

  
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Bonnie Warne, City Clerk

