

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF SENOIA, GEORGIA FOR THE PURPOSE OF BRINGING THE ZONING ORDINANCE INTO COMPLIANCE WITH THE ZONING PROCEDURES LAW; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the State of Georgia has adopted amendments to the Zoning Procedures Law (ZPL) based on H.B. 1405 to clarify and address various procedural issues; and

WHEREAS, Senoia seeks to comply with the amended ZPL by adopting appropriate amendments to the Zoning Ordinance, as amended; and

WHEREAS, The amended ZPL provides for additional public notice and public hearing procedures as amendments to the Zoning Ordinance that revise single family residential classifications and definitions to authorize multifamily residential construction in single family residential districts; and

WHEREAS, the vast majority of land in jurisdictions across the nation is reserved for single family detached development, precluding other types of housing development; and

WHEREAS, Sec. 74-1. *Purpose of districts* establishes promotion of the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the city as a significant public policy.

NOW, THEREFORE, be it ordained by the Mayor and Council of the City of Senoia, Georgia, and by the authority of same, as follows:

Article I

The following terms shall be inserted into Sec. 74-2. -Definitions of the Zoning Ordinance to read as follows:

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

(1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency appointed by the City of Senoia Mayor and Council, or the City Council itself, to exercise delegated, quasi-judicial zoning powers including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, administrative permits, and other similar permits not enumerated herein as zoning decisions, pursuant to standards for the exercise of such quasi-judicial authority adopted by the City Council.

(1.2) 'Quasi-judicial decision' means a final administrative decision by an appointed quasi-judicial officer, board, or agency as concerns appeals of administrative decisions by such officers, boards, or agencies and a final decision as concerns applications for variances from the standards of the Zoning Ordinance, approval or denial of administrative permits and other similar permits not enumerated herein as a zoning decision.

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

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

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

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

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

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

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

(E) The grant or denial of a permit relating to a special use of property;

(F) The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs (C) or (E) of this paragraph.

(5) 'Zoning ordinance' means an ordinance or resolution of a local government establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein.

Article III

Sec. 74-42. – Planning commission action, add subsection (c) to read as follows: (c)“Upon notification of the completed application for an amendment to the official zoning map, an amendment to the Zoning Ordinance, certain variances or a special use permit are proposed that relates to or will allow establishment of any multifamily dwelling in a single family residential district, a public hearing on the proposed action shall be held by the City of Senoia Planning Commission and City Council in accordance with O.C.G.A. § 36-66-4, as such section may be amended.

Article III

Sec. 74-41. -Public notification, add a number (1) before paragraph titled; *Legal notice*, add a number (2) before paragraph titled; *Letters to property owner*, add a number (3) before the last paragraph and add a new paragraph (4) to read as follows:

(4) A local government delegating decision-making power to a quasi-judicial officer, board, or agency shall provide for a hearing on each proposed action described in paragraph (1.1) of Code Section 36-66-3 of the ZPL and in Sec. 74-38, of this ordinance. Notice of such hearing shall be provided a minimum of thirty (30) days prior to the quasi-judicial hearing, with such notice being made as provided in this section and with additional notice being mailed to the owner of the property that is the subject of the proposed action.

a. The department of planning and development shall publish a notice of the time, location and date of such hearing and shall place the proposed action on the agenda of a regular meeting for a public hearing in accordance with the requirements of the Zoning Ordinance.

b. If a zoning decision of the City of Senoia is for the rezoning of property and the rezoning is initiated by a party other than the City of Senoia, then the additional public notice as below shall be given:

i. The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

ii. A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the hearing; and

iii. The department shall publish such notice in a newspaper of general circulation within the county a minimum of 15 days and not more than 45 days prior to the date of the hearing. Such notice shall be a minimum of six column inches in size and shall not be located in the classified advertising section of the newspaper.

Article III

Sec74-41. – Amendments, Public notification, a new paragraph (5) shall be added to read as follows:

“(5) Notwithstanding any other provisions of this ordinance to the contrary, 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 shall be adopted in the following manner:”

a. The zoning decision shall be adopted at two (2) regular meetings of the City of Senoia Mayor and Council making the zoning decision, during a period of not less than twenty-one (21) days apart; and

b. Prior to the first meeting provided for in paragraph a. of this subsection, a minimum of two (2) public hearings shall be held on the proposed action. Further, a minimum of one (1) of the public hearings shall 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 in Sec. 74-42 of this Code Section. – Amendments, subsection Public notification. The department shall give notice of such hearing by:

(i) Posting notice on each affected premises in the manner prescribed by subsection (b) of this Code Section; provided, however, that when more than five hundred (500) parcels are affected, in which case posting notice shall be required every five hundred (500) feet along the street frontage of the affected premises; and

(ii) Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of each hearing a minimum of fifteen (15) days and not more than forty-five (45) days prior to the date of the hearing.

(iii) 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 notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of City of Senoia and in the office of the clerk of the superior court of Coweta County of the legal situs of Coweta County for the purpose of examination and inspection by the public. A copy of the proposed amendment shall be available to the public at no cost upon written request.

(iv) The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of the City of Senoia or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of City of Senoia to multifamily residential uses of property.

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

Article III

Sec. 74-44. – Amendments, Action by the City Council, add number (1) to the first paragraph, and new paragraph (2), Review of the exercise of zoning, administrative, or quasi-judicial powers to read as follows:

(2) To ensure the public is afforded due process in an orderly manner to petition the courts for review of the exercise of zoning, administrative, or quasi-judicial powers by the City of Senoia, as guaranteed by Article I, Section I, Paragraphs IX and XII of the Constitution, the General Assembly, pursuant to its authority under Article VI, Section IV, Paragraph I of the Constitution, provides the following mechanism by which each of the powers described in this ordinance may be reviewed by the Superior Court of Coweta County:

a. Zoning decisions as described in this ordinance being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning on a subject property or the validity of conditions or an interim zoning category other than what was requested in Superior Court pursuant to its original jurisdiction over declaratory judgments pursuant to Chapter 4 of Title 9 and equity jurisdiction under Title 23. Such challenges shall be by way of a de novo review by the Superior Court wherein such review brings up the whole record from the City of Senoia and all competent evidence shall be admissible in the trial thereof, whether adduced in a local government process or not and employing the presumption that a governmental zoning decision is valid and can be overcome substantively by a petitioner showing by clear and

convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to public health, safety, morality, or general welfare; or

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

c. All such challenges or appeals shall be brought within 30 days of the written decision of the challenged or appealed action.

d. To ensure that the citizens of the City of Senoia are not unnecessarily burdened by the review process as a mechanism of appeal, the City of Senoia shall designate by ordinance or resolution the following officers and officials:

i. The officer of the quasi-judicial board or agency who shall have authority, without additional board or agency action, to approve or issue any form or certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the regular offices of the City of Senoia; and

ii. The elected official or his or her designee who shall have authority to accept service and upon whom service of an appeal of a quasi-judicial decision may be effected or accepted on behalf of the City of Senoia during normal business hours at the regular offices the City of Senoia.

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

f. The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single family residential zoning classifications within the territorial boundaries of the City of Senoia or zoning decisions that result in the rezoning of all property zoned for single family residential uses within the territorial boundaries of the City of Senoia to multifamily residential uses of property.

g. This subsection shall not apply to zoning decisions for the rezoning of property from a single family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

Article III

Sec. 74-43. –Rules of procedure for public hearings, add subsection (14) and (15) to read as follows:

(14) Public hearing procedures for the planning commission. For each matter concerning the amendment of the comprehensive plan, the official zoning map, the text of the Zoning Ordinance, decisions on applications for certain variances, or other similar permits enumerated herein as a zoning decision or for any matter concerning issuance of a special use permit or other matter on the agenda that requires a public hearing and a vote of the planning commission, the procedures of Sec. 74-43. Amendments, Rules and procedures for public hearings and meetings shall be followed.

(15) Public hearing procedures for the City council. For each matter concerning the amendment of the comprehensive plan, the official zoning map, the text of the Zoning Ordinance, decisions on applications for certain variances, or other similar permits enumerated herein as a zoning decision or for any matter concerning issuance of a special use permit or other matter on the agenda that requires a public hearing and a vote of the City council, the procedures in Sec. 74.43. –Rules and procedures for public hearings and meetings shall be followed.

Article XIV

Sec. 74-301. – Additional Powers and Duties of the City Council, Appeals and hearings. Delete existing paragraph and replace with new paragraph (1) to read as follows: (1)The City council shall hear appeals and variance applications referred to it within 45 days of receiving the complete and sufficient application for appeal and give notice to the appellant and official(s) subject to the appeal. The secretary shall issue proper public notification of the public hearing. The public notification shall indicate the place, date and time of the hearings and shall be posted and advertised per O.C.G.A. § 50-14-1 et seq., the Georgia Open Meetings Act.”

Sec. 74-304. – Decisions of the city council. Add subsection (c) to read as follows: (c) Following consideration of all testimony, documentary evidence and matters of record, the city council shall make a determination on each appeal. The city council shall decide the appeal within a reasonable time but, in no event, more than 45 days from the date of the initial hearing. An appeal may be sustained only upon an expressed finding by city council that the administrative determination of the quasi-judicial officer, board, or agency was based on an erroneous finding of a material fact, or that the officer, board, or agency acted in an arbitrary manner. The city council shall also consider the following standards of review when deciding an appeal:

- a. The degree to which the granting of the appeal, overturning the action by the quasi-judicial officer, board, or agency would adversely impact adjacent and nearby property as opposed to the public benefit realized in denial of the appeal.
- b. Whether the granting of the appeal would further the purposes of the zoning district to which the subject of the appeal is related.
- c. Whether the granting of the appeal would cause significant adverse environmental impacts.
- d. Whether the granting of the appeal would allow a use or manner of operation otherwise in compliance with all other standards of the zoning district which may be related to the appeal.
- e. Whether the granting of the appeal is consistent with the established record of decision concerning identical or similar appeals.

Article XIV

Sec. 74-306. – Administrative variance shall be amended to add subsections (3) and (4) to read as follows:

(3) The provisions of the Zoning Ordinance shall be administered by the department, in association with the Senoia Planning Commission (planning commission), and the Senoia Mayor and Council (city council).

(4) The authority of quasi-judicial officers, boards, and agencies identified in this ordinance and appointed by the city council to exercise delegated, quasi-judicial zoning powers, including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, administrative permits or other similar permits not enumerated herein as a zoning decision.

Article XIV

Sec. 74-302. – Notice of hearings delete subsection (d) and add the new subsection (d) follows:

(d) A local government delegating decision-making power to a quasi-judicial officer, board, or agency shall provide for a hearing on each proposed action described in paragraph (1.1) of Code Section 36-66-3 of the ZPL and in Sec. 74-38, of this ordinance. Notice of such hearing shall be provided a minimum of thirty (30) days prior to the quasi-judicial hearing, with such notice being made as provided in this section and with additional notice being mailed to the owner of the property that is the subject of the proposed action.

a. The department of planning and development shall publish a notice of the time, location and date of such hearing and shall place the proposed action on the agenda of a regular meeting for a public hearing in accordance with the requirements of the Zoning Ordinance.

b. If a zoning decision of the City of Senoia is for the rezoning of property and the rezoning is initiated by a party other than the City of Senoia, then the additional public notice as below shall be given:

i. The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

ii. A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the hearing; and

iii. The department shall publish such notice in a newspaper of general circulation within the county a minimum of 15 days and not more than 45 days prior to the date of the hearing. Such notice shall be a minimum of six column inches in size and shall not be located in the classified advertising section of the newspaper.

Article XV

Sec. 74-317. – Repeal of conflicting ordinances; validity of prior approval and actions.

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

This Ordinance shall become effective upon adoption.

This _____ day of _____, 2023.

**SENOIA, GEORGIA
CITY COUNCIL**

Mayor - William “Dub” Pearman, III

Attest:

By: _____
Lynn Carter, City Clerk

First Reading: _____