

ARTICLE XVI - AMENDMENTS TO THE ZONING ORDINANCE

Section 1600. Authority

This Ordinance may be amended from time to time by the Mayor and Council after notice as provided herein and holding a Public Hearing.

Section 1601. Reserved

Section 1602. Who May Initiate Amendments

Proposed amendments to the text or map of this Ordinance may be initiated upon a motion by the Mayor and Council or by petition by any individual, firm or organization, or their duly appointed agent or attorney.

Section 1603. Minimum Parcel Size

No tract or parcel of land shall be considered for a Zoning District change that has an area, width or road frontage, less than the minimum required area, width or road frontage for the Zoning District proposed.

Section 1604. Procedure for Amending the Text of the Zoning Ordinance

- a) Proposed amendments to the text of this Ordinance shall be filed with the Zoning Administrator, in such form as deemed appropriate, together with an application fee, to be established by resolution of the Mayor and Council and amended from time to time, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of a proposed amendment, the Zoning Administrator shall schedule Public Hearings upon the proposed amendment for review and final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not more than forty-five (45) days, prior to the date of the Public Hearings, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.
- d) The Mayor and Council shall hold a Public Hearing, as duly advertised and in accordance with the policies and procedures outlined in Article XX, to consider the proposed amendment. The Mayor and Council may adopt the proposed amendment as presented, adopt the proposed amendment with modifications, deny the proposed amendment in whole or in part, or table the proposed amendment.

Section 1605. Procedure for Amending the Official Zoning Map

- a) An application to amend the Official Zoning Map shall be filed with the Zoning Administrator, containing at a minimum, the information required by this Ordinance under Section 1608 of this Article, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of said application, the Zoning Administrator shall schedule Public Hearings upon said application for review and final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not more than forty-five (45) days prior to the date of the Public Hearings, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.
- d) If said application is submitted or initiated by a party other than the Mayor and Council, the Zoning Administrator shall place or cause to be placed on the subject property, a Public Notice Sign in a conspicuous location not less than fifteen (15) days prior to the date of the Public Hearings.
- e) The Mayor and Council shall hold a Public Hearing as duly advertised and in accordance with the policies and procedures outlined in Article XX, to consider the application. The Mayor and Council shall consider the application, including any specific recommended conditions of approval and any additional evidence that the applicant wishes to present at the Public Hearing.
- f) The Mayor and Council may do the following after the Public Hearing
 - 1) Adopt the proposed amendments as presented;
 - 2) Adopt the proposed amendment as revised or supplemented by conditions of approval established by the board; said revisions may include, if the proposed amendment is for the rezoning of property, rezoning to the proposed zoning district with conditions or rezoning to any other less intense zoning district with or without conditions;
 - 3) Deny the proposed amendment in whole or in part; or
 - 4) Table the proposal.
- g) The decision rendered by the Mayor and Council regarding the proposed amendment shall be deemed to be the final action.
- h) No amendment, supplement, change or repeal of the final action by the Mayor and Council shall become effective unless said amendment, supplement, change or repeal is approved after a Public Hearing.

Section 1606. Content of Required Published Public Notice

The Published Public Notice shall contain the time, date, place and purpose of the Public Hearing. If the Public Notice is regarding a text amendment to the Zoning ordinance, then

the notice shall contain, at a minimum, the Article and Section proposed to be amended.

If an application for a map amendment is submitted or initiated by a party other than the Mayor and Council, the Published Public Notice shall also contain the location, the present and proposed Zoning District designation, and the proposed use for the subject property.

Section 1607. Content of Required Public Notice Sign

The Public Notice Sign required to be placed on the subject property by this Ordinance shall contain the same information stated in Section 1606 of this Article. Said sign shall be at least nine (9) square feet in area.

Section 1608. Documents Required for Submitting an Application to Amend the Official Zoning Map

All applications to amend the Official Zoning Maps submitted or initiated by a party other than the Mayor and Council shall be filed with the Zoning Administrator and shall be accompanied by, at a minimum, the following items:

- a) An application form as available from the Zoning Administrator, complete in all respects.
- b) An application fee or fees as required by the Mayor and Council.
- c) A legal description of the subject property and/or a deed to the subject property, showing the current owner. The deed must indicate the stamp of the Clerk of Superior Court of Banks and/or Habersham Counties, showing the time and date of recording of the instrument. If a deed is submitted, it must be legible and show the complete description of the property to be considered for rezoning.
- d) A site plan drawn to scale, designating the subject property and identifying existing and proposed buildings and uses, adjacent existing land uses and Zoning Districts, including those across abutting public roads, and any other significant site improvements proposed to accommodate the proposed use, or to buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed.

In the case where only a plat of the subject property is provided and no specific land use is proposed, the Mayor and Council shall evaluate the application based upon the most intense possible land use permitted in the proposed Zoning District.

- e) A Letter of Intent, which is a narrative statement from the applicant describing the proposed use of the property, if zoned.
- f) A response to the Review Standards, as set forth in this Ordinance under Section 1609 of this Article.
- g) Other exhibits, as may be required by specific Sections of this Ordinance.

The above requirements will also apply to any property or properties proposed to be annexed into the City of Baldwin if a change in use is proposed from the use at the time of the annexation.

Section 1609. Review Standards

The Mayor and Council find that the following Review Standards are relevant in balancing the interest in promoting the public health, safety, morals, convenience, order or general welfare against the right to unrestricted use of property and shall govern the exercise of the power to adopt a Zoning District change:

- a) The existing land use and zoning classification of nearby property;
- b) The suitability of the subject property for the zoned purposes;
- c) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- d) The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- e) The relative gain to the public as compared to the hardship imposed upon the individual property owners;
- f) Whether the subject property has a reasonable economic use as currently zoned;
- g) The length of time that the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- h) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- i) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- j) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- k) 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.
- l) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed zoning proposal.

Section 1610. Withdrawal of Application for Amendment

Any applicant or property wishing to withdraw a proposed map amendment or text amendment prior to final action by the Mayor and Council must file a written request with the Zoning Administrator.

- a) If the request for withdrawal is received prior to the publication of notice for the public hearing, the Zoning Administrator shall withdraw the application administratively without restriction on the re-filing of a proposed rezoning on the property in the future. The City shall retain all fees paid with the application.

- b) If notice has been published (or is irretrievably set for publication) but the application has not been heard by the Mayor and Council, the application shall remain on the City Council's public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the City Council.

Section 1611. Impact Analysis

If a proposed amendment is for the rezoning of property:

- a) The initial party, if a party other than the Mayor and Council, shall be required to file, with the application for amendment, a written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Section 1609 above. Such a zoning proposal and analysis shall be a public record.
- b) The Mayor and Council shall review the applicant's impact analysis and shall take this information in to consideration when deliberating on the proposed zoning decision.

Section 1612. Conditional Zoning.

In adopting an amendment to the zoning map, or approving a special use permit or a variance, the Mayor and Council may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan. Such conditions may consist of: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area, which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement that the Mayor and Council may deem appropriate and necessary as a condition of rezoning or issuance of a variance or special use permit.

Such conditions:

- a) Shall only be valid if they are included in the motion approving the amendment for adoption;
- b) Shall be in effect for the period of time specified in the amendment;
- c) Shall be required of the property owner and all subsequent owners as a condition of their use of the property;
- d) Shall be interpreted and continuously enforced by the development director in the same manner as any other provision of this Ordinance; and
- e) A building permit shall not be issued until after the presentation and approval by the

planning commission and/or the Mayor and Council of final site, architecture and development plans required by such conditions.

Section 1613. Reapplication Time Requirement

If an application to amend the Official Zoning Map is denied by the Mayor and Council, no application or reapplication to amend the Official Zoning Map may be considered on the same property by the Mayor and Council until the expiration of at least six (6) months immediately following the denial action of the application by the Mayor and Council has occurred. If an application is approved by the Mayor and Council, then no reapplication or request to modify the conditions of approval will be considered on the same property until after six (6) months has elapsed.

Section 1614. Actions to be Taken if Plans of Property Owner are not Implemented Within Specified Time Limits.

For any zoning map amendment for which the Mayor and Council are not the applicants, and upon which property no development permit, building permit, or certificate of occupancy has been issued within 12 months of the date of approval of said amendment, the Mayor and Council may review the zoning district classification of the property and determine whether it shall be continued or initiated for rezoning.

Section 1615. Special Use Permits

Special Use Permits may be authorized, as prescribed herein and as expressly permitted as a Special Use within a particular Zoning District, by the Mayor and Council after notice as provided herein and holding a Public Hearing in accordance with the policies and procedures outlined in Article XX. The Mayor and Council reserve the authority to deny any request or to impose conditions on a use as deemed appropriate to protect the general health, safety and welfare.

Section 1615.1 Minimum Parcel Size

No tract or parcel of land shall be considered for a Special Use Permit that has an area, width or road frontage less than the minimum required area, width or road frontage for the Zoning District of the property.

Section 1615.2 Procedure for Consideration of a Special Use Permit

- a) An application for a Special Use Permit shall be filed with the Zoning Administrator, containing at a minimum the information required by this Ordinance under Section 1615.5 of this Article, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of said application, the Zoning Administrator shall schedule Public Hearings upon said application for review and for final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not