Article 11. Administration

Table of Contents

Sec. 11.1. Review Bodies 11-211-3
11.1.1. Planning Commission 11-211-3

Sec. 11.2. Review Process and Procedures ... 11-711-8
11.2.1. Zoning Application Fee 11-711-8
11.2.2. Subdivision Fees.....11-911-10
11.2.3. Administration.....11-911-10
11.2.4. Administrative Variances 11-911-10
11.2.5. Subdivision Review Process and Procedures 11-1011-11
11.2.6. Amendments 11-2811-29
11.2.7. Appeals 11-3811-39

Sec. 11.3. Nonconforming Uses and Structures 11-4011-41
11.3.1. Purpose.....11-4011-41
11.3.2. Continuation of Nonconforming Use or Structure 11-4011-41
11.3.3. Continuation of Nonconforming Use or Structure Due to Hardship 11-4011-41
11.3.4. Information Required for Continuation of Nonconforming Use 6tructure 11-4111-42
11.3.5. Additional Conditions Placed on Continuation of Nonconforming Use 6tructure 11-4111-42
11.3.6. Appeals 11-4211-43

Sec. 11.4. Enforcement 11-4311-44
11.4.1. General 11-4311-44
11.4.2. Enforcement.....11-4311-44
11.4.3. Remedies for Violation.....11-4311-44
11.4.4. Penalty.....11-4411-45

Sec. 11.1. Review Bodies

11.1.1. Planning Commission

A. Authority.

The Planning Commission may authorize Conditional Use Permits as expressly identified in Article 7of this UDC. However, the Planning Commission shall have full authority to deny any request it deems inappropriate in order to protect the general health, safety, and welfare of the County and its citizens.

B. Membership.

1. The Hall County Planning Commission shall consist of five (5) members. Each County Commissioner shall appoint one (1) member to the Planning Commission. Each appointment shall be announced at a regular or special voting meeting of the Board of Commissioners and shall become effective immediately upon such announcement without further action by the Board. All Planning Commission members shall be residents of Hall County and shall serve the terms provided in subsection B.2.
2. Planning Commission members shall serve staggered two-year terms. The term of each Planning Commission member shall coincide with either the first two years or the second two years of the term of office of the appointing County Commissioner, as established by the Board of Commissioners. Each two-year term shall commence on February 1 and expire on January 31, or until a successor is appointed and qualified.
3. Any vacancy in membership shall be filled for the remainder of the unexpired term by the County Commissioner authorized to appoint the member occupying that position.
4. Planning Commission members shall serve at the pleasure of the Board of Commissioners. The Board of Commissioners may remove any member at any time, with or without cause. Prior to removal, the Board shall provide the member with written notice of the proposed removal and an opportunity to be heard at a public meeting of the Board of Commissioners.
5. The unexcused absence of a Planning Commission member from three (3) consecutive regularly scheduled meetings without prior notice to the chairperson of the Planning Commission or the Planning and Zoning Department staff may be considered by the Board of Commissioners as grounds for removal, but shall not limit the Board's authority to remove a member at its pleasure pursuant to subsection B.4.
6. Members of the Planning Commission may be reimbursed or compensated for their services pursuant to direction and approval of the Hall County Board of Commissioners.

C. Organization and Proceedings.

The Planning Commission shall elect a chairperson and vice chairperson from among its members. The chairperson and vice chairperson shall each serve a one-year term with eligibility for re-election. The Planning Commission shall appoint a secretary, who may be an officer or employee of Hall County. The Planning Commission shall adopt rules of procedure governing the conduct of its meetings and

proceedings and shall establish the time and place of its regular meetings. All meetings of the Planning Commission at which official action is taken must be open to the public in accordance with the Georgia Open Meetings Act, and all records of the Planning Commission shall be maintained in accordance with and subject to the Georgia Open Records Act.

D. Powers and Duties.

The Planning Commission has the following powers and duties:

1. To accept applications and make findings and recommendations at a public hearing for all amendments to this UDC. Recommendations will be forwarded to the county Board of Commissioners.
2. To grant application for all Conditional Use Permits as specified by this UDC, provided that the standards and requirements of this UDC are met.
3. To review preliminary subdivision plats and grant development approval for same when required by this UDC. The Planning Commission may appoint a secretary from their membership to oversee preliminary plat review. The secretary may delegate this duty to the Department of Planning and Zoning as they see fit.
4. To review final subdivision plats and grant recording and approval permits for subdivision when required by this UDC. The Planning Commission may appoint a secretary from their membership to oversee final plat review. The secretary may delegate this duty to the Department of Planning and Zoning as they see fit.
5. To initiate, direct and review from time to time a study of the provisions of this UDC and to make reports of its findings and recommendations as to amendments to the Board of Commissioners.
6. To investigate and make recommendations to the Board of Commissioners regarding the acceptance and classification of county roads.
7. To accept and determine requests regarding unclassified uses upon recommendation from the Director of Planning and Zoning. Such determinations must be made in accordance with the criteria set forth in Sec. 7.1.4.
8. To hear and decide on appeals of determinations and decisions made by an administrative official as specified by Sec. 11.2.7.
9. The Planning Commission may make such determinations, investigate such matters relating to the planning and development of the county, and take such action as authorized by this UDC and the laws of the state.
10. To authorize upon appeal in specific cases such variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this UDC will result in unnecessary hardship and so that the spirit of this UDC is observed, public safety and welfare secured, and substantial justice done.
    a. In cases involving requests for variances from the building setback standards, a plat or survey of the property is required. In cases involving setback variances for commercial or industrial uses of land, a site plan of the property in question prepared by a registered

land surveyor, architect, landscape architect or engineer is required.

b. The authority to grant such variances is limited to variances from the following requirements:

i. Setbacks from property lines.

ii. Planted buffers and vision clearance requirements.

iii. Off-street parking space requirements.

iv. Design standards for single-family and two-family dwellings in Sec. 2.2.

v. Other requirements where the granting of a variance is specifically authorized.

11. Such variances may be granted in individual cases of unnecessary hardship upon a finding of the board that:

a. There are extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship);

b. The application of the requirements of this UDC to this particular piece of property would create an unusual hardship;

c. Such conditions are particular to the property involved and are not common to other properties in the neighborhood;

d. Such conditions are not the result of any actions of the property owner; and

e. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this UDC; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this UDC or for a Conditional Use Permit which has been denied by the Planning Commission.

12. To receive and act upon applications for the change, continuance and/or enlargement of a nonconforming use as provided in this UDC.

13. To perform other duties as from time to time may be delegated by the Board of Commissioners.

E. Exercise of Planning Commission Powers.

In exercising the above powers, the Planning Commission may, in conformity with the provisions of this UDC, reverse or affirm, wholly or in part, or may have all powers of the officer from whom the application is taken, and may direct the issuance of a building permit, occupancy permit or certificate of zoning compliance. In no case shall the powers of the commission be construed to include authority to reclassify use zones. **Actions by Planning Commission.**

In all actions or decisions of the Planning Commission, three (3) members being present shall constitute a quorum with the affirmative vote of at least three (3) members required for any official action or decision of the Planning Commission. Each official action, with the full text of the motion and record of members' votes, must be incorporated in the minutes of the Planning Commission. If an application to the Planning Commission is denied, the

same property may not be considered for any zoning application, and no application may be filed, until the expiration of at least six months immediately following the denial of the application.

F. Review Procedures.

1. The Planning Commission must hold a public hearing on all applications for conditional use permits in accordance with Sec. 11.2.6. and consider the merits of the applications as authorized by this UDC.
2. After hearing testimony from all interested parties, the Planning Commission will have 30 days to render its decision.

G. Notice of Public Hearing.

The requirements and procedures for notice of public hearing in Sec. 11.2.6. must be followed.

H. Submission Requirements.

1. A pre-application meeting is required before submitting any rezoning, special use, conditional use, or variance application. A complete application packet must be prepared and ready for review during the pre-application meeting so County Staff can provide meaningful feedback.

~~1.~~2. An application must be submitted to the Department of Planning and Zoning at least 30 days prior to the date of the Planning Commission hearing at which the application is to be considered. The completed application must be accompanied by payment of such fee prescribed in Sec. 11.2. to cover administrative and advertising costs. The items of information must be supplied by the applicant as set forth in this section.

I. Review Criteria.

A conditional use permit may be granted when the Planning Commission finds from a preponderance of the evidence produced at the public hearing that the proposed use is suitable for the subject property considering the general lines of inquiry established in Sec. 11.2.6.F.3.

J. Burden of Proof.

The applicant for a conditional use permit must have the burden of proof, which must include the presentation of evidence and the burden of persuasion of all questions of fact which are to be determined by the Planning Commission as authorized in this section.

K. Public Comment

1. Submission of Public Comments

   Written public comments concerning an application, petition, request or other matter scheduled for consideration by the County shall be submitted to the Planning and Zoning Department through the Planning Clerk for distribution to the application review body.

2. Deadline for Submission

   Written public comments must be received by the Planning Clerk no later than 8:00 a.m. on the day of the meeting at which the matter is scheduled for consideration.

3. Oral Public Comment

   Nothing in this subsection shall be construed to limit or eliminate the right of a member of the public to provide oral comment during a public hearing or other public comment period conducted in accordance with

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applicable law and the County's established meeting procedures

~~K.~~L. Conditions of Approval.

The Planning Commission may place any reasonable conditions or stipulations upon an approved Conditional Use Permit as deemed necessary, including but not limited to hours of operation, parking, maximum building size, lot size, outside displays, signs, landscape and buffer improvements, and screens, to further insure the orderly operation of the proposed use and its compatibility with the surrounding properties.

~~L.~~M. Appeals to the Board of Commissioners.

Any decision of the Planning Commission may be appealed to the Hall County Board of Commissioners in accordance with Sec. 11.2.7.

11.2.6. Amendments

A. General

All applications, requests and petitions for permits, certificates of zoning compliance, variances, conditional use permits, planned developments, classifications and reclassifications of property, notices of appeal, amendments to this UDC and other similar matters, together with all supporting documents required for such application, request or petition and fees therefor, must be filed with the Planning and Zoning Department in the appropriate form as specified this Error! Reference source not found.~~Sec. 11.2~~. All data, drawings, narratives and other supporting documentation required by this UDC must be provided for in an application to be officially received for staff review and scheduling of consideration by the Planning Commission in accordance with the scheduling provisions established herein.

B. Minimum Tract Size and Frontage for Zoning Change

Except in an application for rezoning to a nonresidential zoning district, no tract of land may be considered for rezoning which has an area less than one acre unless such tract abuts a nonresidential zoning district within county or municipal jurisdiction. Application for rezoning may also be considered when a lot of record meets the minimum area and road frontage required by the zoning district in which the rezoning is sought.

C. Initiation of Proposed Amendments

These zoning regulations of the county, including the official zoning map, may be amended from time to time by the Board of Commissioners of the county. Official zoning map amendments may be proposed by the Board of Commissioners of the county, or by the county Planning Commission, or an administrative official, or by any individual, firm, or organization or their duly appointed agent or attorney; provided, however, no amendment may become effective unless it has been proposed by or submitted to the county Planning Commission for review and recommendation. Application for uses subject to the approval of the county Board of Commissioners must have first been submitted to the county Planning Commission for review and recommendation before consideration by the County Commission. Text amendments to the zoning ordinances may be proposed only by the Board of Commissioners of the county, or the county Planning Commission, or the appropriate administrative official.

D. Filing of Proposed Amendments

All proposed amendments, whether an amendment to the text or modification in the district boundaries on the official zoning map, and uses subject to approval of the County Commission, must be submitted to the Planning and Zoning Department of Hall County at least 30 working days in advance of the next regular meeting of the Planning Commission. The Director of Planning and Zoning must arrange a suitable date for a hearing before the Planning Commission.

E. Submission Requirements

1. Any person or persons requesting a change in the official zoning map or use subject to approval of the County

Commission must file an application with a plat or map of the property attached thereto, together with payment of such fees set forth in this Error! Reference source not found.~~Sec. 11.2~~. to cover administrative and advertising costs, in the Planning and Zoning Department office. Such person or persons or their authorized agent must appear in person at the public hearing held to consider the district change.

2. All applications for a change of zoning classification or use subject to approval of the County Commission must include:

   a. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in this Error! Reference source not found.~~Sec. 11.2~~.

   b. A site plan drawn to scale designating the area covered by the application and identifying existing and proposed buildings and uses, adjacent existing land uses, zoning on contiguous parcels, including those across an abutting public right-of-way, and any other significant site improvements proposed to accommodate the proposed use or buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed. In cases where only a plat or map is provided and no land use is proposed, the Planning Commission and County Commission may evaluate the application based on the most intense possible land use permitted in the proposed district.

   c. For any application for a slow rate land treatment system as defined in Error! Reference source not found.~~7.6.9.D.1~~, the following additional requirements apply:

      Prior to consideration by the county Planning Commission for their recommendation to the County Commission, the county Engineering Department must have completed a review of the proposal for site acceptability relative to topography, soil classifications, public or private access, proposed effluent treatment levels and natural, undisturbed buffer zones for surface waters, floodplains, wetlands, wells, residential and other protected areas in addition to other criteria deemed appropriate by the Planning Commission or County Commission. The following information must be submitted to the County Engineer for review of a zoning application and subsequent submittal of a report to the Planning Commission for consideration of the zoning of any land for a wastewater land application system.

      i. The design development report submitted to the Environmental Protection Division certified by a professional engineer experienced in the design of land application systems and registered to practice in the State of Georgia.

      ii. A plan for the disposal of excess biological solids.

      iii. Certification from a professional geologist, registered to practice in the

State of Georgia, certifying that the land application site is not located within two miles of a significant groundwater recharge area as defined by the Environmental Protection Division.

iv. A detailed history of all the owner's previous activities, within the State of Georgia in the field of land application, including every other facility it has operated and including a detailed account of all past violations of federal, state, or county laws or regulations, and all past and pending litigation, favorable or unfavorable.

d. For any application proposing the development of a commercial or industrial property, a change in use of an existing commercial or industrial property, a major subdivision as define herein, or any development that triggers a Development of Regional Impact (DRI) review, the applicant shall submit a Trip Generation Memo at the time of the pre-application meeting. The Trip Generation Memo shall be prepared in accordance with the requirements established by the Hall County Public Works Department and shall estimate the anticipated average daily traffic generated by the proposed development.

i. If the Director of Public Works determines, based upon the Trip Generation Memo, that the proposed development is expected to generate 500 or more gross daily trips, the applicant shall be required to prepare and submit a Traffic Impact Study (TIS) prior to consideration of the application by the County Commission.

ii. Before preparing the Traffic Impact Study, the applicant shall submit the proposed scope of the study, including the intersections, roadway segments, driveways, and other transportation facilities to be evaluated, to the Hall County Public Works Department for review and approval. The scope shall be approved after acceptance of the Trip Generation Memo and prior to preparation of the Traffic Impact Study.

iii. At the applicant's expense, the Traffic Impact Study shall be prepared by a professional engineer licensed to practice in the State of Georgia in accordance with the requirements established by the Hall County Public Works Department. The Public Works Department shall review the Traffic Impact Study and forward its findings and recommendations to the County Commission as part of the application review process.

F. Planning Commission and Hall County Commission Consideration and Decision

1. The Planning Commission must hold a public meeting on all zoning applications or applications for a use subject to approval of the County Commission. The Planning Commission must hold the required public meeting not less than 30 days, nor more than 60 days, from the date of the filing of a complete application.
2. After hearing testimony from all interested parties, the Planning Commission will have 30 days within which to make its decision to grant or deny the application or make a recommendation to the Board of Commissioners. If the Planning Commission fails to make a decision within the specified period, it may be deemed to have carried a recommendation of approval of the application.
3. The Planning Commission must study the need and justification for the change based on a determination of the facts applicable to the particular case, and the following general lines of inquiry must be considered:
    a. Whether the zoning proposal will permit a use that is suitable in view of the use, development and zoning of adjacent and nearby property.
    b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
    c. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
    d. 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, schools, police protection, fire protection, public health facilities or emergency medical service.
    e. Whether the zoning proposal is in conformity with the policy and intent of the future land use plan for the physical development of the area.
    f. The extent to which property values are diminished by the existing zoning restrictions.
    g. The extent to which the destruction of the subject property's value under the existing zoning promotes the health, safety, morals or general welfare of the public.
    h. The relative gain to the public as compared to the hardship imposed upon the individual property owner.
    i. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property.
    j. Whether there are other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
    k. Whether the change would create an isolated district unrelated to the surrounding districts.
    l. Whether the present zoning district boundaries are illogically drawn in

relation to existing conditions in the area.

m. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood.

n. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned.

o. Whether the need for rezoning could be handled instead by a variance request to the Planning Commission.

p. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted.

q. Whether there is reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property.

4. When the application is for site-built houses, modular homes and mobile homes more than seven years old being moved into Hall County for the purpose of permanent or temporary occupancy, in addition to the items listed above, the Planning Commission must also consider the compatibility of the proposed residential unit with the existing housing in the area surrounding the proposed location of that residence in terms of the type of housing, the style of housing, the age of housing and the condition of housing.

5. When the application is for pre-owned site built houses, industrialized homes or manufactured homes to be moved into Hall County for the purpose of permanent or temporary occupancy, in addition to the items listed in subsection ”3” above, the Planning Commission must consider the compatibility of the proposed residential unit with the existing housing in the area surrounding the proposed location of that residence in terms of the type of housing, the style of housing, and the condition of such housing. Such residential unit must meet the minimal standards of all applicable building and construction codes adopted as a part of the Official Code of Hall County. The Planning Commission must first consider an application for such dwelling unit and make its recommendations to the Hall County Commission. The Hall County Commission, in making its decision, may approve the application, deny the application, or approve the application with conditions.

6. Any manufactured home proposed to be moved into the County into a registered or approved mobile home park, or a manufactured home proposed to be moved into the County for the purpose of upgrading an approved, permitted existing manufactured home, may be exempt from the provisions of review by the Planning Commission or County Commission noted in subsection 5 above. All applicable review and inspection required by Chapter 15 of the Official Code of Hall County, Georgia, will remain in effect for all manufactured homes to be moved into the county which may include a site inspection by the Hall County Building Inspection Department.

G. Public Hearing Required

1. The Planning Commission and Board of Commissioners, when taking final

action on all applications, must provide for public hearings on the proposed actions. Public meetings related to recommendations made by the Planning Commission to the Board of Commissioners do not require notice provided herein. A notice of public hearings must be published at least 15 ~~30~~days but not more than 45 days prior to said public hearings in a newspaper of general circulation within the territorial boundaries of the county.

2. The county will follow the additional notice and hearing requirements found in O.C.G.A. § 36-66~~-1~~ whenever so required by State law, including any of the following instances when required by State law:

3. Zoning decisions subject to the additional procedures established by O.C.G.A. § 36-66-4(h), including qualifying zoning amendments 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 classifications or definitions, or to grant permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning district. The applicability of these procedures shall be determined in accordance with the exceptions provided in O.C.G.A. § 36-66-4(h); or ~~County-initiated rezoning or text amendments to revise a zoning classification related to single-family residential uses of property so as to authorize multi-family uses on property pursuant to such classifications 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 district;~~

   ~~a. Halfway houses, drug rehabilitation centers, or other facilities for the treatment of drug dependency; or~~

4. Annexations related to zoning decisions, where applicable under O.C.G.A. § 36-66-4(d)~~.~~

H. Public Notice of Hearing

1. Contents of Notice. If an application is being considered for a change of zoning for a specifically described tract or parcel of land (amendment to the zoning map), the public notice must, in addition to the requirements of this Sec. 11.2.6., include the following information:

   a. The location of the property; and

   b. The present zoning classification; and

   c. The proposed zoning classification of the property.

2. Posting and Mailing of Notice

   a. Posted Notice. All zoning map amendments initiated by a party other than the county Planning Commission or the county Board of Commissioners, and applications for uses subject to approval of the County Commission, require a sign placed in a conspicuous location on the property which is the subject matter of the zoning application.

3. Mailed Notice. Mailed notice must be made via U.S. Postal Service mail at least 15~~30~~ days but not more than 45 days before the date of the public hearing to the following parties:

i. Property owner notice. Mailed notice must be made to the property owner(s) of record. The applicant must provide the mailing address for property owner(s) with the filing of the zoning petition.

ii. Applicant.

iii. Appellant for any filed appeal must also receive mailed notice if not one of the parties already identified as requiring notice.

4. Sign Posting Information. The public notice sign must contain the same information described in Sec. 11.2.6.H.1.

5. Sign Posting Date. The required public notice sign must be posted not less than 15 days ~~and~~ nor~~t~~ more than 45 days prior to the date of the hearing. For applications requiring public hearings before both the Planning Commission and Board of Commissioners, the required public notice sign identifying the Board of Commissioners' public hearing must be posted within the timeframe specified above.

I. Public Notice of Hearing for Applications Initiated by the County

When an application is brought by or initiated by the Board of Commissioners of the county, or by an administrative official of the county, the only public notice required by these zoning regulations is newspaper advertisement as set forth in O.C.G.A. § 36-66-1 et. Seq. and Sec. 11.2.6.G. and 11.2.6.H.

J. Action by Board of Commissioners

1. The Board of Commissioners must consider applications for uses subject to approval of the County Commission and all zoning recommendations of the Planning Commission, including conditions of approval and any additional evidence that applicant wishes to present at a public hearing on the date advertised, at which time all interested parties and citizens will have an opportunity to be heard and present evidence regarding the proposed amendment or use subject to approval of the County Commission, or the appeal of the conditional use permit or use subject to approval of the Planning Commission, or other zoning decisions.

2. The Board of Commissioners may place any reasonable conditions or stipulations upon any application for a use subject to approval of the County Commission, a proposed amendment or the appeal of a conditional use permit or use subject to approval of the Planning Commission, or other zoning decisions as deemed necessary to further insure the orderly operation of proposed uses and their compatibility with the surrounding properties.

3. The Board of Commissioners, in making its decision on the proposed amendment, the use subject to approval of the County Commission, or the appeal of a conditional use permit, or the use subject to approval of the Planning Commission, or other zoning decisions, must consider the general lines of inquiry established under Sec. 11.2.6.F and any other relevant factor submitted by the applicant.

4. The applicant/appellant must have the burden of proof, which must include

the presentation of evidence and the burden of persuasion of each factor necessary to receive approval of the Board of Commissioners. Failure of the applicant/appellant to meet this burden may result in a denial of the proposed amendment, the use subject to the approval of the County Commission, or the appeal of a conditional use permit or the use subject to approval of the Planning Commission, or other zoning decisions.

5. The Board of Commissioners public hearing is to be held as follows (or the Planning Commission, where authorized by this UDC as the final decision-making body):

   a. The public hearing is to be held in conjunction with regular meetings of the Board of Commissioners or Planning Commission, as applicable, with published notice of time and place.

   b. The hearing is conducted by the county attorney or other hearing officer designated by the Board of Commissioners.

   c. The hearing officer introduces the proposed zoning amendments before the Board of Commissioners or Planning Commission, as applicable. Proposals are considered in the order listed in the published notice. The hearing officer describes each proposed zoning amendment and the party initiating the proposal. Staff is then called upon to report on the Planning Commission's recommendation and summarize its written report.

   d. Persons both favoring and opposing the proposed amendment are provided an opportunity to address the Board of Commissioners. During this period:

      i. Each speaker must first state his name and address.

      ii. Comments are accepted first from the party proposing the action and any other proponents of the action, followed by opponents of the action. The party proposing the action may then offer rebuttal.

      iii. The hearing officer may place reasonable limits on the number of persons who may speak for or against the proposal, on the time allowed for each speaker, and on the total time allowed for comment. No less than ten minutes may be permitted for all of those speaking in support of an amendment and no less than ten minutes may be permitted for all those speaking against, unless such proponents or opponents take less time than the minimum allowed.

      iv. Comments must pertain only to the merits of the proposed action and must be directed to the Board of Commissioners. Comments are not allowed that may be construed as personal attacks on any other speaker or are irrelevant to the proposed action. Violators will be first cautioned and then prevented from making further comment.

v. Petitions, studies, letters, and other material should be submitted prior to the hearing, allowing ample time for study by the Board of Commissioners. Materials submitted at the hearing may or may not be accepted by the board, and if presented orally are subject to time limitations.

e. The Board of Commissioners may, if necessary, call on previous speakers for clarification, or may call for additional views, studies or information from any source considered necessary to making a sound decision. The Board of Commissioners may continue the hearing to a later date.

f. The decision rendered by the Board of Commissioners regarding the proposed amendment, the use subject to approval of the County Commission, or the appeal of a conditional use permit or the use subject to approval of the Planning Commission, or other zoning decisions, will be considered the final action on the application.

g. No approval or denial of an amendment, use subject to approval of the County Commission, appeal of an administrative official or decision-making body, approval or denial of a use subject to approval of the Planning Commission, or other zoning or quasi-judicial decision by the Board of Commissioners will become effective unless said approval or denial is determined after a public hearing.

K. County Approval for Withdrawal of Applications

An application for any request considered by the Planning Commission may be withdrawn by the applicant at any time prior to the notification by public advertisement of the adjoining property owners. The application may be withdrawn after said public notice is given and before the Planning Commission takes a vote on said application only with the consent of a majority of the members of the Planning Commission. For applications requiring a recommendation from the Planning Commission for final action by the county Board of Commissioners, after the Planning Commission has taken a vote on the application, the application may only be withdrawn with the consent of a majority of the Board of Commissioners voting to allow the applicant's request to withdraw the application. For appeals to the Board of Commissioners or Planning Commission decisions, the application may only be withdrawn with the consent of a majority of the Board of Commissioners voting to allow the applicant's request to withdraw the appeal. Fees are to be refunded as described in Sec. Error! Reference source not found.~~11.2.1~~.

L. Successive Applications

If a use subject to approval of the County Commission or Planning Commission or a rezoning is denied, or if an appeal from the decision of an administrative official or the Planning Commission is affirmed by the Board of Commissioners, then the same property may not again be considered for any zoning application, (rezoning, conditional use, variance, etc.) and no such application may be filed, until the

expiration of at least six months immediately following the date of the denial of the use or rezoning or the denial of the appeal. In addition to the foregoing six-month restriction, t~~T~~he same property may not be considered for an application of the same type as the application previously denied, and no such application of the same type may be filed, until the expiration of at least twelve months immediately following the date of the denial of the use or rezoning or the denial of the appeal. For purposes of this subsection, the twelve-month restriction applies only to applications of the same type as the application previously denied and does not prohibit the filing of a different type of zoning application after expiration of the initial six-month restriction.

M. Appeals of Board of Commissioners Actions

1. Any person with adequate standing to do so under Georgia law may seek review in the Superior Court of Hall County in accordance with the applicable procedures established by the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-5.1.
2. The Director of Community Development and Infrastructure is authorized, without additional board or agency action, to approve or issue any form or certificate necessary to perfect any appeal petition for review of lower judicatory bodies, and is authorized, without additional board or agency action, to accept service or be served in behalf of any lower judicatory board or agency, during normal business hours, at the regular offices of the county.
3. Service of an appeal of any quasi-judicial decision rendered pursuant to this section may be effected or accepted on behalf of the local governing authority, during normal business hours, at the regular offices of the county, by the county attorney when so allowed by the county's service of process resolution, otherwise said service may be effected or accepted on behalf of the local governing authority according to the requirements of O.C.G.A. § 9-11-4(e).

N. Georgia Zoning Procedures Law

The review and approval procedures of this zoning ordinance are intended to comply with the provisions of the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.), which is incorporated by reference in its entirety. If any provision of this zoning ordinance is in conflict with any provision of the zoning procedures law or if this zoning ordinance fails to incorporate a provision required for the implementation of the zoning procedures law, the Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.) controls.

O. Amendments to Subdivision Regulations

The Planning Commission, upon referral from the Board of Commissioners, may from time to time recommend amendments to the subdivision regulations of this UDC. Any amendment must be heard by the Planning Commission, who must make a recommendation to the Board of Commissioners regarding approval or denial. Prior to acting on any proposed amendment, the Board of Commissioners must hold a public hearing on the amendment, having first published a notice of the time and place of the hearing in a newspaper of general circulation in the county at least 15 days prior to the hearing.

11.2.7. Appeals

A. Right to Appeal

1. Any person aggrieved by the final decision rendered on any proposed amendment, any conditional use permit, or use subject to the approval of the Planning Commission, or any other zoning or quasi-judicial decision by any county official, department, board, or agency affected by any final order, requirement, or decision authorized in this UDC shall have the right to an appeal of the decision. Appeals of administrative officials will be heard by the Planning Commission, and appeals of any decision-making body will be heard by the Board of Commissioners.
2. A person is considered aggrieved for purposes of this section only if the person or their property was the subject of the action appealed from, or the person has a substantial interest in the action being appealed that is in danger of suffering special damage or injury not common to all property owners similarly situated.

B. Filing of Appeal

In order to file an appeal, the appellant must submit a written notice of appeal within 30 calendar days of the decision to the Planning Commission office. The appellant must submit justification and reasons for the appeal. Such justification should make specific reference to such relevant analysis as listed in Sec. 11.2.6.F. The appeal fee must be paid at the time of filing said written notice of appeal. The Director of Planning and Zoning, upon receipt of the written notice of appeal and fee, shall notify the county administrator of the appeal and submit the notice and record of the application to the county administrator.

C. Hearing and Decision

1. The appropriate hearing body (either the Planning Commission or the Board of Commissioners) must hold a public hearing to consider all appeals of decisions by administrative officials and decision-making bodies. The only active participants are the appellant, the original applicant (if other than the appellant), and the zoning official or other administrative official whose decision is being appealed. Participants in the meeting may present testimony, produce documentary evidence, and may cross-examine witnesses provided by another participant. The Board of Commissioners or Planning Commission may ask questions or seek clarification from any participant in the hearing, and may limit the time for the hearing as it deems necessary and appropriate provided that all participants are afforded equal time to present evidence.
2. Following the close of the hearing and following its consideration of all testimony, documentary evidence, and matters of record presented, the Board of Commissioners or Planning Commission must render its decision. The decision must be made within a reasonable period of time, but in no event more than 30 days from the date of the close of the hearing.
3. In exercising its powers, the Board of Commissioners or Planning Commission may reverse or affirm the decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from. To that end, the hearing body has

all the powers of the administrative official or decision-making body from whom or from which the appeal was taken, and it may issue or direct the issuance of a permit or other approval, provided that all requirements imposed by all other applicable laws and ordinances are met. In no case may the powers of the hearing body be construed to include authority to reclassify use zones. An appeal may be reversed or the decision modified only upon an expressed finding by the hearing body that the action was based on an erroneous finding of a material fact, or that said action was arbitrary.

D. Required Public Notice

Notice to members of the public must be provided in accordance with the provisions of this UDC and O.C.G.A. § 36-66-1 et seq.

E. Date of Public Hearing

The county administrator or other appropriate county official must place an appeal on the agenda of the first public meeting of the appropriate hearing body of the county arising after the relevant notice provisions of Sec. 11.2.6.H. have been complied with.

F. Payment of Costs of Appeal

The appellant will bear the costs of preparing the necessary documents as required by the county to properly appeal the matter before the hearing body, in addition to the appeal fee.

G. Decision of Appeal

1. An appeal may be sustained (i.e.: where the decision is reversed) only upon a finding by the hearing body that the action subject to the appeal was based on an erroneous finding of a material fact or that the administrative official or decision-making body acted in an arbitrary manner.
2. Appeals of administrative officials will be heard by the Planning Commission.
3. Appeals of any decision-making body will be heard by the Board of Commissioners.
4. Appeals of the Board of Commissioners must be appealed to the Hall County Superior Court accordance with the Zoning Procedures Law, O.C.G.A. § 36-66-5.1.