

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 289

ZONING PROCEDURES AND STANDARDS

AN ORDINANCE to amend the Zoning Ordinance of the City of Lookout Mountain, Georgia (Ordinance No. 25, as heretofore amended), to adopt procedures and standards governing the exercise of the zoning power of the City of Lookout Mountain, to adopt policies and procedures for calling and conducting public hearings required by the Georgia Zoning Procedures Law, and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and IT IS HEREBY ORDAINED:

Section 1. Preamble and Enactment Clause. For the purpose of insuring that due process is afforded to the general public when the City of Lookout Mountain, Georgia, regulates the use of property through the exercise of its zoning power, and pursuant to the authority and mandates of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph IV and the Georgia Zoning Procedures Law, Official Code of Georgia Annotated Section 36-66-1, et seq., the City of Lookout Mountain, Georgia does hereby adopt, order, and enact into law this Ordinance.

Section 2. Amendment of Ordinance No. 25. The Zoning Ordinance of the City of Lookout Mountain, Georgia (Ordinance No. 25, as heretofore amended), is hereby amended as follows:

2.1 Sections 10-11.2, 10-11.3 and 10-11.4 of Ordinance No. 25 are hereby deleted in their entireties, and the following are substituted in lieu thereof:

Sec. 10-11.2. Same - Public Hearing.

Public hearings relating to any such change shall be conducted in accordance with the provisions of the City of Lookout Mountain's Zoning Procedures and Standards Ordinance (Ordinance No. 289 as the same may from time to time be amended) and shall, at a minimum, include all notice and hearing requirements now or hereafter established by Georgia law, including but not limited to the notice and hearing requirements of the Georgia Zoning Procedures Law, Official Code of Georgia Annotated Section 36-66-1, et seq.

Sec. 10-11.3. Same - Standards.

The standards governing the exercise of the zoning power of the City of Lookout Mountain are as set forth in the City of Lookout Mountain's Zoning Procedures and Standards Ordinance (Ordinance No. 289 as the same may from time to time be amended). Those standards govern all "Zoning Decisions" as that term is defined in

the Georgia Zoning Procedures Law, including but not limited to amendments to the City of Lookout Mountain's zoning ordinances.

Sect. 10-11.4. Same - Fees for Administrative Costs.

Fees for the processing of proposed amendments to this chapter or to any other zoning ordinance shall be set from time to time by the City Council and charged in accordance with the City of Lookout Mountain's Zoning Procedures and Standards Ordinance (Ordinance No. 289 as the same may from time to time be amended).

Section 3. Definitions. When used in this Ordinance, the following terms shall have the definitions and meaning hereafter set forth, alphabetically:

Municipal Planning Commission. The Municipal Planning Commission of the City of Lookout Mountain, Georgia.

Territorial Boundaries. The areas lying within the corporate limits of the City of Lookout Mountain, Georgia.

Zoning. The power of the City of Lookout Mountain to provide within its territorial boundaries for the zoning and 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 said zones or districts were established.

Zoning Decision. The final legislative action by the City of Lookout Mountain which results in:

- a) the adoption 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 of an amendment to a zoning ordinance which rezones property from one zoning classification to another; or
- d) the adoption of an amendment to a zoning ordinance which zones property that is annexed into the City of Lookout Mountain.

Zoning Ordinance. An ordinance of the City of Lookout Mountain establishing procedures and zones or districts within its territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map (as hereinafter amended) adopted in conjunction with the Zoning

Ordinance of the City of Lookout Mountain, which shows the zones and districts and zoning classification of property herein.

Section 4. Amendments. This Ordinance and the Zoning Ordinance of Lookout Mountain, Georgia, may be amended from time to time as provided in this Ordinance, the Zoning Ordinance, and applicable state law. All proposed amendments shall be initiated by an application filed with the City Clerk of Lookout Mountain on forms provided by the City. A standard fee to be set from time to time by the City Council shall be paid with the application.

Section 5. Public Notice. Notice of the public hearing on a proposed amendment to this Ordinance or on a proposed Zoning Decision shall be given as hereinafter set forth:

5.1 At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing, a written notice shall be published in a newspaper of general circulation in the City of Lookout Mountain setting forth the time, place, and purpose of the hearing.

5.2 In addition to the requirements of subsection 5.1, if the proposed amendment calls for a Zoning Decision for the 1) rezoning of property or 2) annexation to the territorial boundaries of the City of Lookout Mountain, and the proposed amendment is initiated by a party other than the City of Lookout Mountain:

5.2-1 The published notice shall include the location of the property and state the present zoning classification of the property (if applicable) and the proposed zoning classification of the property (if applicable); and

5.2-2 Not less than fifteen (15) days prior to the date of the public hearing, a sign shall be placed in a conspicuous location on the property that is the subject of the proposed Zoning Decision setting forth the time and place of the hearing, the proposed zoning change, and any other information required by local ordinance or resolution. Acts of vandalism or natural occurrences limiting the effectiveness of notice by a sign posted on the property shall not invalidate any proceedings or action taken on the proposed amendment.

5.3 If the Zoning Decision is for property to be annexed into the City of Lookout Mountain, then:

5.3-1 The City of Lookout Mountain shall complete the procedures required by this Ordinance for such zoning, except for the final vote of the City Council, prior to adoption of the annexation ordinance or resolution or the effective date of any local Act, but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under O.C.G.A. § 36-36-6;

5.3-2 In addition to the notice requirements of Section 5.3-1, the City of Lookout Mountain shall provide notice of the hearing as required under the provisions of Section 5 herein; and

5.3-3 The hearing required by Section 6.0 of this Ordinance shall be conducted prior to the annexation of the subject property into the City of Lookout Mountain;

5.3-4 The zoning classification approved by the City of Lookout Mountain following the hearing required herein shall become effective on the later of: a) the date the zoning is approved by the City of Lookout Mountain; or b) the date that the annexation becomes effective pursuant to O.C.G.A. § 36-36-2.

Section 6. Public Hearing. A public hearing for the initial adoption of this Ordinance shall be held before the Lookout Mountain City Council following the notice and hearing procedures of the City of Lookout Mountain's Ordinance No. 25, as amended, as well as the procedures of the Georgia Zoning Procedures Law.

Thereafter, a public hearing on any proposed amendment to this Ordinance or on any proposed Zoning Decision shall be held before the Municipal Planning Commission. The public hearing shall be conducted at the time and place specified and as set forth in the public notice described in Section 5 of this Ordinance. The purpose of such hearing shall be to present to the public the proposed amendment or other Zoning Decision and to receive comments thereon from the public. The Municipal Planning Commission shall consider the proceedings and comments of such hearing in making any zoning recommendation on the proposed amendment or other Zoning Decision. The Municipal Planning Commission shall prescribe the rules of order for its deliberations on matters with which it is charged under this Ordinance, and said rules of order shall be consistent with the general requirements and purposes set forth in this Ordinance and other laws of the State of Georgia concerning conduct of proceedings of public commissions, bodies, and governmental units.

Section 7. Conduct of Hearings. The following policies and procedures shall govern the conduct of public hearings under this Ordinance:

7.1 The Chairman of the Municipal Planning Commission or the Mayor in the event of a hearing conducted before the City Council or his/her delegate on the Commission/Council shall open any hearing with an explanation of the purpose of the hearing and a description of the general rules for the conduct of the hearing. The Chairman/Mayor or his/her delegate may describe the authority and role of the Municipal Planning Commission and/or the City Council in any Zoning Decision. An individual requesting to be heard on a matter germane to the purpose of the hearing must be recognized by the Chairman/Mayor or his/her delegate before addressing the Municipal Planning Commission or the City Council. The Chairman/Mayor or his/her delegate shall chair the hearing and shall determine germaneness of any proposed comment or presentation to the Municipal Planning Commission or the City Council in the hearing and is authorized to rule any individual or a portion of any presentation out of order if not

germane to the published purpose of the hearing. Any person requesting to address the Municipal Planning Commission or the City Council upon being recognized by the Chairman/Mayor or his/her delegate shall state his name and residence address before proceeding with any comment, remarks, or presentation. Any person addressing the Planning Commission or the City Council shall respond to questions of the Chairman/Mayor or any member of the Commission/Council. The Chairman/Mayor or his/her delegate may pre-determine the length of any hearing allotting equal time to proponents and opponents of any proposed amendment or other Zoning Decision to the extent that there are both proponents and opponents who desire to be heard. The Chairman/Mayor or his/her delegate shall only be required to offer equal time to both proponents and opponents of any proposed amendment or other Zoning Decision and the fact that equal time is not in fact used by either position shall not invalidate any proceedings or action taken on the proposed amendment or other Zoning Decision. The Chairman/Mayor, however, shall allow a minimum time period to be no less than ten (10) minutes per side for the presentation of data, evidence, and opinion.

7.2 The Chairman/Mayor or his/her delegate shall determine whether any application for a zoning amendment is properly filed and the type of Zoning Decision for which the proposed amendment calls. The Chairman/Mayor or his/her delegate shall confirm the giving of proper public notice of the hearing on the proposed zoning amendment in accordance with this Ordinance.

7.3 The Chairman/Mayor or his/her delegate shall allow the person initiating the proposed zoning amendment or his/her/its designee to present a description of the proposed zoning amendment and the reason(s) for initiating the proposed zoning amendment. The presence of an annexation applicant at the public hearing is not required, unless the petition was filed using the sixty (60) percent method or the zone district requested in the annexation application requires the presentation and approval of a site plan. However, the applicant for a proposed zoning amendment, or his power of attorney, must be present at the public hearing. A failure of the applicant or his/her representative holding power-of-attorney to be present for the hearing before the Municipal Planning Commission shall result in automatic termination of any proceedings on the amendment and an adverse recommendation on the proposed amendment shall be forwarded to the Mayor and Council of the City of Lookout Mountain, unless the applicant can show just cause by reason of health emergency, in which case the application may be re-filed by the applicant for consideration at a later date.

7.4 The Chairman/Mayor or his/her delegate shall enter into the record after the presentation of the applicant or his/her/its representative any written comment, petition, or similar written statement received by the Municipal Planning Commission or Mayor and Council prior to the hearing and the same shall be considered by the Mayor and Council with comments and proceedings of the hearing in making any Zoning Decision concerning the proposed zoning amendment.

7.5 The Chairman/Mayor or his/her delegate shall give persons opposed to the proposed amendment or other Zoning Decision the opportunity to address the Municipal Planning Commission or the City Council, respectively.

7.6 The Chairman/Mayor or his/her delegate may alternate the presentations of persons speaking in favor of and opposed to the proposed amendment or other Zoning Decision beginning with the presentation of the applicant or his/her/its representative, or the Chairman/Mayor or his/her delegate may divide such presentations into blocks of time beginning with proponents of the proposed amendment or other Zoning Decision, and thereafter moving to the presentations of opponents of the proposed zoning amendment. Further, the Chairman/Mayor or his/her delegate may direct that proponents and opponents designate one or more spokesperson(s) for presentations of favorable and opposing views of the proposed amendment or other Zoning Decision. The Chairman/Mayor or his/her delegate may poll the public assemblage at the hearing concerning their concurrence in the remarks of any speaker.

7.7 Any remark amounting to attack on the character or personal integrity of another individual, or comment not factually supportable, or comment in the form of an emotional outburst, shall be non-germane to the purpose of any hearing and may be ruled out of order.

7.8 Upon conclusion of the presentation of persons opposing the proposed amendment or other Zoning Decision, the Chairman/Mayor or his/her delegate shall afford the person initiating the petition an allotted time to address the Municipal Planning Commission or the City Council in rebuttal of any issue(s) raised by persons addressing the Municipal Planning Commission or the City Council in opposition to the proposed zoning amendment. The Chairman/Mayor or his/her delegate may rule out of order the raising of any new issue(s) in rebuttal unless he deems the raising of such new issues useful to the purposes of the hearing, in which case those persons present and opposing the proposed zoning amendment shall be allocated an equal amount of time through a spokesperson or otherwise to address such new issue(s).

7.9 When proponents and opponents of the proposed amendment or other Zoning Decision have been heard in accordance with the foregoing procedures, the Chairman/Mayor or his/her delegate shall declare the public hearing closed. No further public hearing on the proposed amendment or other Zoning Decision shall be required prior to the final Zoning Decision.

Section 8. Zoning Standards. Exercise of the zoning power of the City of Lookout Mountain shall constitute an effort to balance the interest of the community in promoting the public health, safety, morality, or general welfare against the right of property owners to the unrestricted use of their property. The following standards are determined to be relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of the property.

8.1 Standards:

8.1-1 Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and the uses and zoning of adjacent and nearby properties;

8.1-2 Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties;

8.1-3 Whether the property to be affected by the proposed amendment can be used as currently zoned;

8.1-4 Whether the proposed amendment, if adopted, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities;

8.1-5 Whether the subject property under the proposed amendment is in conformity with the policies and intent of the adopted *Walker County Joint Comprehensive Plan, 2012-2032 (Prepared for: Walker County and the Cities of Chickamauga, Lafayette, Lookout Mountain, and Rossville)*, as amended.

8.1-6 Whether there are other conditions or transitional patterns affecting the use and development of the subject property, if applicable, which give grounds for either approval or disapproval of the proposed amendment.

8.2 The City of Lookout Mountain shall consider any proposed zoning amendment properly initiated in light of the standards set forth in Section 8.1. In evaluating the standards set forth in Section 8.1, it shall be the policy of the City of Lookout Mountain to exercise its zoning power in conformity with the policy and intent of the *Walker County Joint Comprehensive Plan, 2012-2032 (Prepared for: Walker County and the Cities of Chickamauga, Lafayette, Lookout Mountain, and Rossville)* insofar as that plan is current in its application to the specific property that is the subject of the proposed amendment. It is further the policy of the City of Lookout Mountain to exercise the zoning power for purposes of assuring the compatibility of the use of adjacent and nearby properties and the preservation of the economic value of adjacent and nearby properties while enabling a reasonable use of all property.

Section 9. Official Action. Consideration of any proposed Zoning Decision properly initiated and subsequent to the public hearing shall be as follows:

9.1 The Municipal Planning Commission shall prepare an internal report of an investigation of the proposed Zoning Decision commenting on the advisability of adopting any proposed zoning amendment. The Commission's report shall provide an evaluation of the standards set forth in Section 8.1 and describe how the advised action is considered to be consistent with the exercise of zoning power set forth in Section 8.2. A summary of the

proceedings of the public hearing shall accompany the Municipal Planning Commission's written recommendation to the Mayor and Council.

9.2 Upon conclusion of their public hearing, the Municipal Planning Commission may approve, disapprove, or table the proposed Zoning Decision. The Municipal Planning Commission may recommend and/or the City Council may amend an application prior to acting thereon: 1) to reduce the size of the area affected by the amendment; 2) to change the requested zone district to a less intensive or lower density district than the requested zone; 3) to specify conditions that are deemed relevant to the public interest regarding site plans, ingress/egress, buffers, and infrastructure related to drainage, utilities, traffic, and other matters. The foregoing powers are not in limitation of any other zoning powers accorded the City of Lookout Mountain under the laws of the State of Georgia. If the Municipal Planning Commission fails to recommend action on the Zoning Decision in writing within forty-five (45) days of the close of their public hearing and the applicant does not agree in writing to an extension of the time limit, the applicant may take the proposed Zoning Decision to the City Council without a Planning Commission recommendation.

If consideration of the proposed zoning amendment is tabled, it shall be reconsidered by the Municipal Planning Commission not later than its next regular monthly meeting. In any event, the Commission shall have forty-five (45) days from the date of the close of the public hearing before the Municipal Planning Commission to review and submit its written recommendation to the City Council of Lookout Mountain. Once an application for a Zoning Decision has been filed and the Planning Commission holds their public hearing, the Municipal Planning Commission shall make a recommendation on the proposed Zoning Decision, and the City Council shall take a final action, regardless of whether or not the applicant withdraws his/her/its application for the proposed amendment.

9.3 The authority of the Municipal Planning Commission and planning staff in any Zoning Decision shall be advisory only. Any final Zoning Decision shall be made by the City Council of the City of Lookout Mountain, who shall either approve or disapprove the proposed zoning amendment. Any approval of a proposed Zoning Decision may be subject to any and all lawful conditions determined by the governing authority that are attached to the ordinance approving the proposed Zoning Decision.

9.4 If the City Council of the City of Lookout Mountain shall take official action defeating a proposed zoning amendment which seeks to rezone property, the same property may not be considered again for rezoning until the expiration of twelve (12) months from the date of the official action of the City Council.

Section 10. Distribution. Copies of the procedures and standards set forth in this ordinance, as amended, shall be printed and copies thereof made available for distribution to the general public in the offices of the City Clerk of the City of Lookout Mountain, Georgia. Distribution to the general public shall be upon request of a member of the general public who shall be entitled to one copy. The Clerk of the City of Lookout Mountain, Georgia, is authorized to print copies of this Ordinance and any amendments thereto from time to time for purposes of meeting distribution requirements of the Georgia Zoning Procedures Law, as amended.

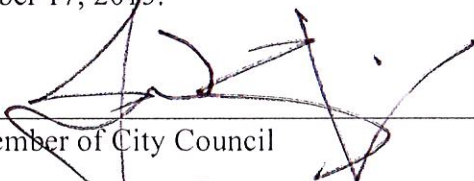
Section 11. Severability. If any of the sections, subsections, sentences, clauses or phrases of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be affected, since it is the express intent of the Council of the City to pass each section, phrase, paragraph and word separately.

Section 12. Part of Code of Ordinances. It is the intention of the Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

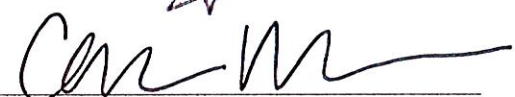
Section 13. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 14. Effective Date. This Ordinance shall be effective ten (10) days after its adoption by at least three (3) members of the Council of the City after two (2) readings at least one (1) week apart.

APPROVED on first reading on September 17, 2015.



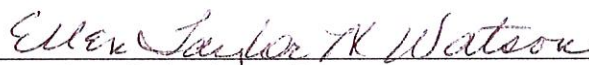
Member of City Council



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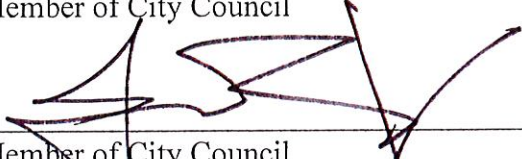


Mayor of Lookout Mountain, Georgia

APPROVED AND ADOPTED on second reading on _____, 2015.

11-23-15

Member of City Council



Member of City Council

Chris Wain

Member of City Council

A Elizabeth Sells

Member of City Council

Member of City Council

Alyson W. Dethlefs

Mayor of Lookout Mountain, Georgia

ATTEST:

Cindy [Signature]

City Clerk