

ORDINANCE NO. 2023-4.B

AN ORDINANCE TO AMEND THE CITY OF POOLER CODE OF ORDINANCES APPENDIX A – ZONING, ARTICLE II – DEFINITIONS AND ARTICLE V – PROCEDURES FOR ADMINISTRATION AND ENFORCEMENT, SECTION 5, PUBLIC NOTICE AND SECTION 6 – PUBLIC HEARING REQUIREMENTS AND CHAPTER 62 – PLANNING, ARTICLE II – PLANNING AND ZONING COMMISSION – SECTION 62-34 TO CLARIFY LANGUAGE RELATED PUBLIC NOTICE REQUIREMENTS AND PUBLIC HEARING PROCEDURES; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Pooler that the Code of Ordinances of the City of Pooler, Georgia are hereby amended as follows:

I

That APPENDIX A – ZONING, Article II. DEFINITIONS, be amended by adding the text as follows:

Drug dependence center. A drug dependency center includes any facility for the treatment of drug dependency, including a substance abuse center, halfway house, or drug rehabilitation center.

Zoning Procedures Law. Official Code of Georgia Annotated (O.C.G.A.) Sec. 36-66-1, et seq., as amended.

II

That APPENDIX A – ZONING, Article II. DEFINITIONS, be amended by deleting the strikethrough text and adding the underline text as follows:

Zoning Action. For the purpose of this ordinance, a zoning action includes ~~a zoning map amendment, text amendment, a variance, conditions use permission, site plan approval, or any other permitting process guided by the content of this ordinance.~~ those actions defined by the Zoning Procedures Law as a zoning decision; such as final legislative action by a local government that results in a zoning text amendment, a zoning map amendment, variance, conditional use permit, or zoning conditions related to a map amendment or conditional use permit, etc.

III

That Appendix A – ZONING, Article V. PROCEDURES FOR ADMINISTRATION AND ENFORCEMENT, be amended by deleting the strikethrough text and adding the underline text as follows:

Section 5. Public notice.

~~After a completed application has been filed, the next step in the approval process for a zoning action required by this ordinance is to set a date for a public hearing on the matter and render proper notice to the public.~~ Upon filing a completed application for a zoning action, a public hearing shall be scheduled and proper notice provided on such hearing. Proper public hearing notice procedures shall comply with the following requirements are as follows:

- (A) ~~Legal-Published~~ notice. Notice of public hearings before ~~the planning commission and~~ the city council as required by this section shall be published within a newspaper of general circulation within the territorial limits of the city, ~~in which are carried the legal advertisements of the city and~~

The notice shall state the time, place and purpose of the hearing, ~~and~~ The notice shall also include the location of property that is the subject of the zoning action, the present zoning district of said property, and the ~~proposed zoning district or~~ proposed zoning action ~~of related to~~ said property. Such notice for the official public hearing before the city council shall be published at least 15 days; but, not more than 45 days prior to the date of the hearing.

(B) *Signs posted.* Where a zoning action of property is initiated, a designated official of the city shall post a sign at least 15 days prior to the city council public hearing, in a conspicuous place on the property for which an application for a proposed zoning action has been submitted. The sign or signs will contain information as to the current zoning district, the proposed zoning district or zoning action, and the date, time, and location of the public hearings before ~~the planning commission and~~ the city council.

(C) *Supplemental notification to adjacent property owners.* At least seven days prior, but not more than 45 days before, the date of the public hearing, a notice setting forth the date, time, and place for such public hearing shall be sent by mail to the applicant, ~~the planning and zoning commission,~~ and all owners of property located adjacent to or across a public right-of-way from the property being proposed for ~~rezoning a zoning action.~~ rezoning a zoning action. The notice shall also include the location of the property, its present zoning classification, and ~~the proposed zoning classification action.~~ The names and addresses of owners of such properties to be notified shall be provided by the applicant as set forth herein; provided, however, where a ~~map amendment zoning action~~ map amendment zoning action is initiated by the ~~planning commission city,~~ such names and addresses of owners of property located adjacent to or across a public right-of-way from property being proposed for rezoning shall be provided by the zoning administrator. Failure to send notices or failure of the property owner to receive notification shall not affect the validity of any zoning action. This procedure exists as a supplement to the legally required notification procedures.

(C)(D) Public notice related to specific requests. Notice of a public hearing related to certain, specific requests, including those related to a drug rehabilitation center, delegation of decision-making power to a quasi-judicial board, a revision of single-family use definitions or classifications to allow multi-family uses in such classifications or definitions, or granting blanket permission to allow deviations from the existing requirements for a single-family residential zoning, shall comply with the requirements of the Zoning Procedures Law for those items.

Section 6. Public hearing requirements.

The following requirements are hereby established in accordance with the Zoning Procedures Law, for zoning actions as defined by this ordinance. Whenever a zoning action takes place, a hearing must be held before the public as noticed per Section 5 above. When an applicant requires more than one zoning action ~~or subdivision procedure~~ for a development project, a separate public hearing must be held for each procedure or action. The official public hearing before the city council is the public hearing of record. A public meeting, allowing for comments, shall be held by the planning and zoning commission prior to the official public hearing and shall follow the rules of conduct in subsection (A) below. ~~In the City of Pooler there are two public hearings held for each zoning action or subdivision procedure. One before the planning commission and the other before the city council. The public hearing before the city council is by record the official public hearing.~~ The purpose of each ~~the~~ public hearing is to ~~discuss~~ consider

information pertinent to the ~~particular requested zoning action or procedure~~. During the hearing the following rules and actions shall be followed:

(A) *General rules of conduct.* Whenever a public hearing is required by this ordinance or by state law prior to approving a zoning action, such public hearing, ~~whether when~~ conducted by the city council, or public meeting conducted by the planning and zoning commission, shall be conducted in accordance with the following procedures:

- (1) The public hearing shall be called to order by the presiding officer.
- (2) The presiding officer shall explain the procedures to be followed in the conduct of the public hearing.

(3) The presiding officer or administrative staff shall be heard first, introducing the item and requested action and shall present any information or materials pertinent to the request.

~~(34)~~ If the subject of the hearing is initiated by an applicant other than the city council, the petitioner requesting such zoning decision, or the applicant's agent, if present, shall be recognized first and shall be permitted to present and explain reasoning and justification for the request for the zoning decision. Thereafter, all individuals who so desire shall be permitted to speak in favor of the zoning decision.

~~(45)~~ If the request is initiated by the city council, all members of the city council shall be allowed to speak as they are recognized by the mayor or presiding officer, regardless of whether such city council member speaks in favor of or in opposition to the proposed zoning decision. Thereafter, all individuals who so desire shall be permitted to speak in favor of the zoning decision.

~~(56)~~ After all individuals have had an opportunity to speak in accordance with subsection 6(Aa)(34) above, those individuals present at the public hearing who wish to speak in opposition to the requested zoning decision shall have an opportunity to speak.

~~(67)~~ When any person wishes to speak at a public hearing, he shall raise his hand and, after being recognized by the presiding officer, shall stand and give his name, address, and make any comment appropriate to the proposed zoning decision. If within two years immediately preceding the filing of the applicant's application for a zoning action, the speaker has made campaign contributions aggregating to more than \$250.00 to any member of the city council or any member of the city planning and zoning commission, it shall be the duty of the speaker to disclose the following information five days prior to the official public hearing:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the map amendment and the date of each contribution; and
- c. An enumeration and description of each gift having a value of \$250.00 or more made by the applicant to the local government official during the two years immediately preceding the filing of the application for the zoning action.
- d. In the event that no such gift or contribution was made, the applicant shall affirmatively so state. Campaign disclosure forms are available at the Pooler City Hall

during normal hours of operation. Also, campaign disclosure forms shall be made available to the public at the planning and zoning commission public hearing meeting for use at the official public hearing before the city council.

- (78) ~~No time limit shall be imposed upon any person speaking at a public hearing, but a Time limits may be imposed on the public speakers at the discretion of the Mayor.~~ All public speakers are urged to make their comments brief and avoid repeating other comments.
- (89) The applicant, if present, shall have an opportunity, after all comments in opposition have been made, to make summary remarks concerning the proposed zoning decision.
- (910) Thereafter, the presiding officer shall announce that the public hearing, or public comment period, for the requested zoning decision is closed, and the city council or the planning and zoning commission, as the case may be, shall immediately and openly discuss the proposed zoning decision and vote on action which they are authorized to take.
- (11) The public hearing shall provide the opportunity for hearing and addressing comments, questions, and concerns related to zoning actions from an applicant or members of the public. No further public comments shall be made relating to the zoning action once the public hearing has been closed, except when waived via motion approved by Council per its rules of procedure or recalling a speaker per subsection 6(C)(3) below.
- (B) *Actions specific to the planning and zoning commission during a public ~~hearing meeting~~.* In all for zoning actions in the City of Pooler, the planning and zoning commission is a recommending body and all final decisions must be made by the city council. However, the planning and zoning commission has an important role in the public hearing input process. This role is as follows:
- (1) All proposed zoning actions shall be reviewed by the planning and zoning commission in a public hearing meeting in accordance with the procedures set forth in subsection 6(A) above.
 - (2) The planning and zoning commission shall review and consider a recommendation to the city council with respect to the application for a zoning action. The planning and zoning commission may decide to make no recommendation or it may make any of the following recommendations with respect to an application for a zoning action: approval, denial, deferral, withdrawal without prejudice, reduction of the land area for which the application is made, change of the zoning district requested, or imposition of zoning conditions; ~~and~~
 - (3) The planning and zoning commission shall submit its recommendation on a zoning action application to the city council prior to the scheduled public hearing in which the city council will consider the application for a zoning decision. If the planning and zoning commission fails to submit a recommendation prior to the public hearing, the planning and zoning commission's recommendation shall be deemed one of approval.
- (C) *Actions specific to the city council during a public hearing.*
- (1) Before taking action on a proposed amendment and after receipt of the planning and zoning commission's recommendations and reports thereon, the city council shall hold a public hearing on the proposed amendment request at their next scheduled meeting in accordance with the procedures set forth in subsection 6(A) above.

- (2) So that the purpose of this zoning ordinance will be served and so that health, public safety and general welfare will be secured, the city council may in its legislative discretion:
- a. Approve or deny the proposed zoning action as submitted,
 - b. Reduce the land area for which the application is made,
 - c. Change the zoning district to one other than that requested; or,
 - d. Add or delete zoning conditions as the city council deems appropriate. If conditions are imposed on a zoning map amendment or conditional use permit, the minutes should reflect explicitly the conditions and a written copy attached to the minutes as part of the record. Once conditional zoning is applied, the zoning conditions can be changed in accordance with the procedures set forth herein. ~~A change in a zoning condition would be subject to the Zoning Procedures Law, O.C.G.A. 36-66-1, requiring notice and a public hearing.~~

- (3) At the same meeting which the public hearing is held, nothing shall preclude city council from recalling an applicant or member of the public to obtain clarification of any information provided or discussed once a public hearing has been closed. An action to defer a decision on the proposed amendment shall include a specific meeting date to which the proposed amendment is deferred. The city council may also approve a withdrawal of an application, and if so stipulated by the city council in its decision to approve withdrawal, the 12-month limitation on re-filing of the application for the same property shall not apply.

(D) *Public hearings records standards.* The city clerk or an agent of the city clerk shall mechanically record the proceedings of all zoning public hearings. If requested by any party, verbatim transcripts of the public hearing can be prepared, but only if requested and purchased in advance by the requesting party, who must arrange at his expense for a certified court reporter to record and transcribe the hearing and furnish the original of the transcript to the city council for its records. The record of the public hearing and all evidence (e.g., maps, drawings, traffic studies, etc.) submitted at the public hearing shall be noted as such and shall become a permanent part of the particular zoning action's file.

(E) Deferral of an application for zoning action.

- (1) Applicant. Any applicant wishing to defer an application for zoning action prior to final action on the application shall file a written request for deferral with the zoning administrator.
- (2) Written requests to the zoning administrator.
 - a. Any request submitted in writing shall be by the applicant, property owner, or property owner's authorized agent.
 - b. If a request for deferral is received prior to public notice being published (or irretrievably set for publication) for the public hearing, the application shall be deferred administratively by the zoning administrator.
- (3) Deferral request made after public hearing has been advertised. If a request for deferral is received after public notice has been published (or irretrievably set for publication) for the public hearing, the application may only be deferred by city council at the scheduled

meeting wherein the application is set for consideration. The applicant should also be present at the meeting to verbally state the request to defer.

a. Any request to defer action on an item shall not be taken up until after the public hearing has been held, unless the request includes deferment of the public hearing, when the public hearing has been advertised.

b. Applicants may make a verbal request for deferral physically at the meeting their item is scheduled for action and, if so, shall be accompanied by a written request to the zoning administrator.

c. Regardless of the applicant's presence or non-presence at the scheduled meeting, Council may take any action on the application as it deems appropriate, including without limitation approval or denial of the request for deferral, or any other permissible action.

d. In the event an applicant seeks to make changes to the request once the public hearing is closed, other than asking for zoning conditions, a request for withdrawal would need to be submitted and a new application filed.

(4) *Period of inaction and need for re-noticing.* In the event a public hearing has been held, a deferral is provided by council, and final action on the application is not taken within 90 days of the held public hearing, a secondary public hearing shall be required. The public hearing shall follow all notice and procedure requirements as found within section 5 and 6(A) above.

(5) *Fee required for cost of advertising.* The applicant shall be responsible for the actual costs of any notice publication requirements for public hearing following a granted deferral. The required costs must accompany a written request for deferral. If an additional public hearing is not advertised, the submitted costs shall be refunded to the applicant.

(6) *Limitations on deferrals.* An applicant seeking a deferral shall be limited to two requests for any application requiring a public hearing. Applicants seeking to defer a third time may make a final request verbally before city council, in accordance with subsection 6(E)(4) above, or withdraw the application, per subsection 6(F) below.

(F) *Withdrawal of an application for zoning action.*

(1) *Applicant.* Any applicant wishing to withdraw an application for zoning action prior to final action on the application shall file a written request for withdrawal with the zoning administrator.

(2) *Written requests to the zoning administrator.*

a. Any request submitted in writing shall be by the applicant, property owner, or property owner's authorized agent.

b. Any request for withdrawal shall immediately remove the application from consideration with no further action necessary regarding that application.

(3) *Forfeiture of application fees.* Any application that is withdrawn shall forfeit any submitted fees associated with that request.

That CHAPTER 62 – PLANNING, Section 62-34. *Organization; purpose; rules; staff; finances.* be amended by deleting the strikethrough language and adding the underlined language:

Sec. 62-34. Organization; purpose; rules; staff; finances.

(a) *Organization.* The chairperson of the planning and zoning commission is the city planner. The chairperson may appoint a secretary, who may be an officer or employee of the city. Should the chairperson be unable to attend a meeting, or the position of city planner is not filled, the city zoning administrator may serve as chairperson pro tem.

- (1) All planning and zoning commission meetings shall **comply** with the requirements of O.C.G.A. § 50-14-1 et seq. (as amended), including without **limitation** all meetings being open to the public and minutes taken.
- (2) The planning and zoning commission should hold two **meetings** per month, with specific meetings dates and times to be set by **the** commission, **provided** the planning and zoning meeting is not held in the same calendar week (i.e. Sunday to Saturday) as a regular meeting of the city council.
- (3) Any four members, of the planning and zoning **commission** constitute a quorum for any meeting, including the **chairperson**. The resident **alternate** will not be counted unless they are sitting in place of a resident **regular** member.
- (4) Any item for consideration by the **planning and zoning** commission or proposed recommendation to the city council must **be acted upon** by voice vote and recorded in the minutes.
- (5) Any item for **consideration** or proposed **recommendation** requires a minimum of three votes in favor of or **against** the **proposed recommendation**. The chairperson shall not cast a vote except in the event of a tie.

The **planning and zoning commission** shall follow all notice, meeting, and public **hearing-meeting** guidelines set forth in Appendix A, Article V, **Sections 5 and 6**, of the Code of Ordinances for the City of Pooler.

(b) *Purpose.* Except as otherwise expressly provided in the City of Pooler Charter or Code of Ordinances, the **planning and zoning commission** is as an advisory board only, and any recommendation made is not binding **upon** the city council. Persons appearing before the commission should not rely on statements **made** by commission members as being dispositive or approving any item for consideration.

(c) *Rules of procedure.* The **planning and zoning** commission may conduct business according to this order, but may alter the manner of business from time to time as necessary and appropriate:

- (1) Workshop (if applicable)
- (2) Call to order
- (3) Pledge of allegiance
- (4) Review of previous meeting minutes
- (5) Old business
- (6) New business (if applicable), including necessary public **hearingscomment periods**

(7) Other business brought before the commission

(8) Meeting adjournment

All agenda items may be discussed prior to a motion unless that agenda item is withdrawn by the petitioner. Only seated commission members may comment on a motion after it has been made, unless it is a motion to table or postpone, at which time there is no discussion on the motion.

When any question arises, which is not provided for in the rules applicable to the planning and zoning commission, as far as practicable, it will be controlled by the current edition of Robert's Rules of Order.

(d) Staff access and finances.

- (1) Subject to approval from the city manager, all members of the planning and zoning commission may have access to staff to help aid with research and study of items brought to the commission.
- (2) Commission members are not entitled to compensation for their time or efforts spent on commission business but may be reimbursed for actual expenses incurred in connection with their official duties, upon approval by the city manager.
- (3) All members of the planning and zoning commission may receive materials and tools, as deemed necessary by the city council, to complete their duties at no cost to the commission members

V

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

VI

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

VII

This ordinance shall be effective immediately upon its adoption by the Mayor and City Council of Pooler, Georgia.

1st Reading:

4/17/23

2nd Reading:

5/1/23


This 1st day of MAY, 2023.

CITY OF POOLER, GEORGIA



Rebecca C. Benton, Mayor

Attest:


Kiley Fusco, City Clerk

Date: 5/1/2023



DRAFT