

Chapter 27

ZONING ADMINISTRATION

Section 27.01. Establishment of the administrative agency; members.

The Commission is designated, pursuant to ordinances of Macon-Bibb County, as the administrative agency for enacting, administering and enforcing the provisions of this Resolution. The Commission shall be composed of five (5) members selected pursuant to the ordinances of Macon-Bibb County.

(Added July 11, 2022, ZA22-001)

Section 27.02. Application and general policy goals.

The provisions of this chapter shall apply generally in administering the remainder of this Resolution, provided that the provisions of this chapter may be supplemented or superseded by other provisions of this Resolution applicable to particular matters. The general policy goals of the Commission in administering these regulations are:

- [1] To ensure appropriate, orderly and favorable development in the public interest and to further the public welfare in line with the principles and criteria laid out in this Resolution;
- [2] To keep abreast of changes in the community and to make decisions based on sound and up-to-date planning criteria, standards and principles;
- [3] To make decisions in general accord with the comprehensive plan as well as plans of other agencies where appropriate (except where circumstances justify deviation);
- [4] To weigh each case on its own merits, and in doing so attempt to be flexible rather than rigid in making a decision;
- [5] To allow for periodic amendments, supplements or changes in this Resolution, related regulations and in the comprehensive plan, as well as the zoning boundaries or classification of property on the official zoning maps, as may become necessary due to changing conditions or otherwise.
- [6] To afford due process to all interested parties and make timely, fair and lawful zoning decisions, considering the rights and needs of both applicants and those affected by the uses and activities applied for;

(Added July 11, 2022, ZA22-001)

Section 27.03. Supplemental definitions.

For purposes of this chapter, the following definitions shall be used:

- [1] *Conditions.* Terms, conditions, restrictions, stipulations and/or safeguards required by the zoning enforcement officer or the Commission as a condition of issuance or approval of an application for a permit, plat, certificate of appropriateness, rezoning or other matter needed for the use, alteration or development of, or construction, erection, disturbance or alteration of, land or structure.
- [2] *Rezoning.* Amendment to the official zoning map which changes the zoning district(s) in which a tract or tracts of land lies, whether by changing the boundaries of the zoning district(s) or the zoning classification of such district(s).

(Added July 11, 2022, ZA22-001)

Section 27.04. Powers and duties of the Commission.

The Commission shall have all the powers and duties prescribed by law and by this Resolution, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Commission that is conferred by law, to:

- [1] Interpret the provisions of this Resolution.
- [2] Conduct meetings and hearings, provide notice and keep records of the same in accordance with the procedures set out in this chapter and under the Georgia Open Meetings and Open Records Acts, the Georgia Zoning Procedures Law and other applicable law.
- [3] Provide for the establishment of use (zoning) districts throughout Macon-Bibb County, enumerating allowable uses of land therein and requirements in connection therewith.
- [4] Adopt, amend, supplement and change this Resolution, as well as the official zoning maps.
- [5] Adopt, amend, supplement and change the comprehensive plan, subject to approval by the Macon-Bibb County Commission, pursuant to state law.
- [6] Authorize the issuance and/or approval of permits, plats and certificates of appropriateness, as well as any other matters authorized under this Resolution or general law.
- [7] Hear and decide appeals of administrative actions and decisions of the zoning enforcement officer.
- [8] Enforce the provisions of this Resolution and take such action, authorized by this Resolution or other applicable law, as may be required to remedy any violation of this Resolution.
- [9] Obtain technical and/or professional advice and assistance, data, information or factual evidence from the staff of the Commission, other governmental bodies or from other persons or sources, for assistance in reaching decisions pursuant to this Resolution.
- [10] Set fees for all applications and other matters pursuant to this Resolution in such amount as the Commission may determine as necessary to partially defray administrative expenses, the cost for legal advertising and any other costs necessary to the regulatory role of the Commission.
- [11] Delegate to the zoning enforcement officer such powers and duties as may be appropriate.
- [12] Impose conditions on applicants for issuance or approval of permits, plats, certificates of appropriateness, rezonings and any other regulatory matters as may be necessary or advisable to protect adjacent properties and the public health, safety and welfare, and/or to enter into agreements with applicants, owners or authorized agents of such owners, specifying and imposing such conditions. The Commission may require, in addition to other conditions, a financial guarantee as provided in this chapter. In the event of a forfeiture of any financial guarantee, the Commission shall have the authority to ensure completion of any work for which the guarantee was forfeited.
- [13] Execute any other power or duty required or conferred by this resolution or other law.

(Added July 11, 2022, ZA22-001)

Section 27.05. Powers and duties of the zoning enforcement officer.

The executive director of the Commission and/or his designee, shall be the zoning enforcement officer, who shall exercise such powers and duties as conferred by this Resolution, to include specific duties as follows:

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- [1] *Processing of applications.* Assist applicants and examine all applications submitted pursuant to this Resolution to determine if the application conforms to this Resolution, including but not limited to whether it is complete, holding or rejecting applications that are not in such conformance. Assess fees on such applications pursuant to the schedule of fees approved by the Commission. Transmit conforming applications requiring Commission approval to the Commission.
 - [2] *Issuance of permits and certificates of appropriateness.* Issue permits and certificates of appropriateness upon Commission approval or where otherwise authorized to do so under this Resolution.
 - [3] *Subdivision plat approval.* Approve plats of proposed subdivisions pursuant to Chapter 29.
 - [4] *Impose conditions.* Where authorized to issue permits, certificates of appropriateness or approve plats or other matters without Commission approval, to impose reasonable conditions on issuance or approval of the same as authorized under this Resolution.
 - [5] *Recommend consent agenda.* Recommend applications for approval within a consent agenda where lawful and appropriate pursuant to this Resolution.
 - [6] *Maintain Commission zoning records.* Keep records of any and all applications and other materials related to appeals, permits, plats, certificates of appropriateness, rezonings, text changes to this Resolution, any other regulatory and enforcement matters and any administrative matters as required by law or the Commission. Such records shall form a part of the records of the office and shall be a public record except where exempted from public disclosure under the Georgia Open Records Act or other state or federal law.
 - [7] *Staff reports and land use studies.*
 - (a) Cause staff reports to be made relating to applications and other matters submitted for action by the Commission, including such information, analysis and recommendations as the officer deems necessary or advisable and/or as requested by the Commission to ensure that all relevant and material information on the matter to be considered is before the Commission.
 - (b) Where substantial adverse impact may exist in the opinion of the zoning enforcement officer, cause more extensive land use studies to be made of the proposed development or activity and the potential effects of the same.
 - [8] *Findings.* At the request of the Commission, after a hearing on an application, recommend findings subject to the Commission's approval in reaching a decision on that application.
 - [9] *Enforcement of Resolution.* Enforce the provisions of this Resolution as provided in this Resolution.
 - [10] *Site plan approval.* Approve all final site plans prior to issuance of any certificate of appropriateness or permit except where such approval authority has been reserved to the Commission, either by Commission order or under this Resolution.
 - [11] *Residential facilities for the handicapped.* Determine whether a proposed residential facility is covered by the provisions of 42 U.S.C. § 3601 et seq. (Chapter 45, "Fair Housing," of Title 42) as a residential facility for handicapped persons pursuant to Section 4.14 of this Resolution.
 - [12] *Technical assistance.* Obtain technical and/or professional advice and assistance, data, information or factual evidence from the staff of the Commission, other governmental bodies or from other persons or sources for assistance in preparing reports and studies and in reaching decisions relative to any applications pursuant to this Resolution or any other matter.
 - [13] *Delegation of powers.* Delegate to members of his staff such of his or her powers and duties as may be appropriate and lawful and/or as directed by the Commission.

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- [14] *Other duties and powers.* Such other powers and duties as may be conferred by the Commission, by this Resolution or other law.

(Added July 11, 2022, ZA22-001)

Section 27.06. Permits, approvals required.

- [1] *Permits required.* Until the issuance of the required permit(s), no use, occupancy or work on land or structure shall begin. Permits shall be for permitted uses, conditional uses and/or variances. A permit shall be required for any:
- (a) proposed use, development or occupancy of land or structure;
 - (b) construction or erection of a new structure;
 - (c) modification or alteration of an existing structure that changes its size, footprint, function or height in any manner or that would require a variance from the requirements of this Resolution; and/or
 - (d) any grading, fill, site preparation, or removal of trees or vegetation incidental to, or preparatory for, any of the activities referenced in (a), (b) or (c), above, or where otherwise required under this Resolution.
- [2] *Certificates of appropriateness.* In design review districts (as defined in Chapter 28), a certificate of appropriateness must be obtained pursuant to Chapter 28 prior to any work on land or structure being done for which such certificate is required under such chapter. Such certificate shall be in addition to any permit or approval otherwise required under this Resolution.
- [3] *Plats.* Plats for the subdivision of land must be approved pursuant to Chapter 29 in order to be recorded.
- [4] *Change in permit holder of use permits.* Permits are specific to the property for which the permit is issued as well as the person to whom it is issued. Other than permits for single family homes or duplexes, any change in the person engaging in the use allowed by such permit shall require that the new person engaging in such use file a change of ownership form with the Commission, provided that change of ownership forms shall not be required for variances or certificates of appropriateness. The new holder of any permit shall be subject to all conditions attached to the original permit.
- [5] *Display of permit.* Any permit or certificate of appropriateness necessary to allow construction or other work on land or a structure shall be displayed at the site of and during such construction or work. Where a use requires a business license, the zoning permit must be displayed on the premises together with the business license.

(Added July 11, 2022, ZA22-001)

Section 27.07. Conditional approval.

- [1] Approval of any permit, plat, certificate of appropriateness or rezoning may be made by the Commission (or the zoning enforcement officer where he has approval authority) upon such conditions as are deemed appropriate to carry out the intent of this Resolution and/or necessary to protect adjacent or nearby properties, the general neighborhood or the community, including residents, workers, and visitors therein.
- [2] Conditions may include, but are not limited to:

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- (a) Conditions necessary to protect adjacent or nearby land owners, or the community at large, from any deleterious effects from any development, construction, alteration or use;
 - (b) Conditions more restrictive than those generally applying to the district regarding design, density, height, connection to central water and sewer systems and other matters;
 - (c) Stipulations requiring that development take place in accordance with a specific site plan and/or within a specific time frame;
 - (d) Leaving or placing buffer areas and/or screening as referenced in Section 4.08 or natural areas;
 - (e) With respect to rezonings, stipulations that the development or other action begin or take place within a given period of time after which time public hearings will be initiated to determine whether the district should be returned to its original zoning designation or such other district as determined appropriate by the Commission in accordance with this Resolution;
 - (f) Compliance with applicable law and/or proof of approval of other regulatory agencies, where applicable; and
 - (g) Financial guarantees pursuant to next section.
- [3] No placement of conditions on approval of any application by either the zoning enforcement officer or the Commission shall be deemed to create a duty on the Commission to determine as a matter of either fact or law that such conditions have been met by an applicant.

(Added July 11, 2022, ZA22-001)

Section 27.08. Financial guarantee.

The Commission may require a financial guarantee of the performance of any conditions imposed on approval of an application in the form of a performance bond, cash escrow deposit, letter of credit or some other form of guarantee in a form acceptable to the Commission, as follows:

- [1] The financial guarantee shall be payable to the Commission and, unless the Commission directs otherwise, shall be in an amount equal to one hundred twenty-five percent (125%) of the entire estimated cost, of performing the conditions specified, the estimated cost to be certified by a licensed engineer or architect. The duration of the financial guarantee shall be until such time as the work to be performed pursuant to the conditions is accepted by the Commission or such other period of time as the Commission may specify to insure completion or maintenance.
- [2] If any portion of the required improvements or changes specified in the conditions shall fail to be performed as required, the Commission may declare the guarantee forfeited and require the guarantor to pay the Commission the amount of the guarantee immediately.
- [3] The Commission shall utilize any funds realized under the guarantee to complete improvements or changes called for in the conditions imposed upon the permit and, in the event all of the funds are not utilized, any remaining portion shall be returned to the applicant, guarantor, bonding company, or crediting institution as appropriate.

(Added July 11, 2022, ZA22-001)

Section 27.09. General application procedure.

This section shall apply to all applications filed with the Commission, provided that the procedures herein may be altered or supplemented by specific procedures applicable only to particular types of applications or in particular zoning districts.

- [1] *Filing.* All applications shall be filed with the zoning staff at the offices of the Commission or electronically as may be provided for by the Commission. Applications for permits or certificates of appropriateness shall be filed by either the owner of the property or agents or tenants of such owner acting with approval of the owner. Applications for rezonings or approval of plats shall be signed by the owner or an agent of the owner acting with the written approval of the owner.
- [2] *Approval authority.* All applications submitted pursuant to this Resolution shall be subject to approval by the Commission except those applications as to which the zoning enforcement officer is specifically delegated approval authority under this Resolution.
- [3] *Required information and submissions:*
 - (a) *Completed and signed application form.* Application forms provided by zoning staff must be completely filled out with all information requested on such forms and executed by a party authorized to do so. Information identifying the applicant(s) and type of entity, if the applicant is not a natural person, as well as identification of the property subject to the application, must be provided.
 - (b) *Site plan.*
 - (i) All applications relating to a particular tract shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the zoning enforcement officer or the Commission.
 - (ii) An acceptable site plan must include at a minimum the following: a drawing illustrating the property lines and dimensions, location and size of existing and proposed structures, use of structures, easements (private and public), water courses, fences, parking areas where applicable, street names and street right-of-way lines shown thereon, and such other information regarding abutting property as directly affects the application.
(Notwithstanding the above, applications for permitted uses generally require site plans only where new construction is involved or the zoning enforcement officer or Commission determines that a site plan is needed in a particular case for proper evaluation of the application.)
 - (c) *Description of proposal and criteria for consideration.* A narrative describing the proposed use, structure, project, rezoning and/or text amendment, as applicable, as well as how such proposal meets any applicable criteria for consideration of particular types of proposals (e.g. conditional use permits, rezonings, etcetera) required under this Resolution.
 - (d) *Approval by other agencies.* Where required by this Resolution or any other law, or where deemed material to the application by the Commission or the zoning enforcement officer, evidence of approval or acknowledgement of compliance by other, outside agencies (i.e., other than the Commission) with respect to their requirements under local, state or federal law. No requirement or instruction pursuant to this Resolution that approval of an outside agency be shown with an application shall create any legal duty on the part of the Commission to verify such approval.

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- (e) *Additional submissions.* Particular applications may require additional information or submissions as provided in this Resolution, or where such requirements are material to proper consideration of the application. Such additional information may include, without limitation:
- (i) a traffic study by a professional licensed to perform such studies, where the zoning enforcement officer or the Commission determines that a proposed use may impose significant adverse effects on traffic in the area in question, analyzing potential adverse effects and possible remedial measures, where applicable;
 - (ii) a more detailed site plan or rendering showing building design as well as any other information necessary to determine whether a proposed use conforms to this Resolution and/or may have significant adverse effects on neighboring properties or the community;
 - (iii) evidence of ownership of the tract in question and/or legal authority to file the application, including compliance with deed restrictions, lease provisions and/or subdivision covenants;
 - (iv) any information required under this Resolution with respect to particular applications;
 - (v) for Developments of Regional Impact, any additional information required pursuant to Rules of Georgia Department of Community Affairs, Chapter 110-12-3 and other applicable law; and
 - (vi) any other information deemed material to the application.
- [4] *Meetings with staff.* The staff may meet at any time with applicants and/or other interested parties, including heads of other departments or authorities of Macon-Bibb County, regarding the application. The zoning enforcement officer in particular circumstances may require attendance at such a meeting by the applicant to deem an application complete.
- [5] *Payment of fees.* All fees owed on an application must be paid before such application will be deemed complete.
- [6] *Review of application for completeness and compliance with this Resolution.*
- (a) Applications must be deemed complete by the zoning enforcement officer to be acted upon and before any time period for hearing and/or decision shall begin. To be deemed complete, applications must provide all requested information and submissions (including but not limited to approval of outside agencies, where required), must be accompanied by payment of all fees due the Commission and otherwise be in compliance with this Resolution. If and when an application is "deemed complete," the zoning enforcement officer shall so inform the applicant in writing.
 - (b) Regardless of any prior determination otherwise, where circumstances require it for complete and fair consideration of the application, the zoning enforcement officer may at any time prior to an actual decision or Commission hearing on an application determine that an application should not be, or should no longer be, deemed complete without further information or correction. In such case, the officer shall, prior to the hearing, inform the applicant in writing of the specific correction or information required.
 - (c) Regardless of any decision of the zoning enforcement officer, the Commission may require further information or correction related to an application from the applicant prior to making a decision where such information or correction is material to its decision. The Commission may reject any application where the applicant refuses or fails to provide such requested information or correction.
- [7] *Placing applications on the agenda.*
- (a) Once an application is deemed complete and subject to the staff having a reasonable time to investigate and report on the application to the Commission as well as notice and other

requirements, it shall be placed as soon as feasible on the agenda of a succeeding meeting of the Commission for action. However, an application may be removed from such agenda by the zoning enforcement officer when circumstances arise justifying either an extension or a determination that the application should not be deemed complete without further information, submission or correction.

- (b) Notwithstanding any other provisions of this Resolution, when exigent circumstances are found to exist, in the discretion of the zoning enforcement officer and/or the Commission, an application may be placed on the agenda and/or acted upon prior to being deemed complete, subject to further information, submission or correction being provided. In such instance, the time for hearing, decision or issuance, as applicable, shall not run until the requested material is provided or is determined to be unnecessary.
- [8] *Voluntary withdrawal.* Any application may be withdrawn by the applicant at any time prior to final action thereon by the Commission, upon either written notice to the zoning enforcement officer prior to the hearing on such application or oral notice at the hearing. Such withdrawal shall not constitute a negative decision by the Commission, but fees will not be reimbursed. A new application must be filed with appropriate fees for the matter to be pursued further.
- [9] *Request for deferral or continuance of hearing.* On or before 5:00 p.m. on the last business day prior to the date scheduled for hearing, an applicant may request a deferral of any hearing, which may be granted by the zoning enforcement officer in his or her discretion. Any interested person may request that the Commission grant a continuance of the hearing at the hearing itself. Where a deferral or continuance is at the request of an applicant, the applicant shall pay such fee as may be required by the Commission. In the case of rezonings, an applicant seeking either a deferral or continuance must also pay the Commission the costs incurred in re-advertising the hearing, if any.
- [10] *Amendment of applications.* An application may be amended, with prior approval of the zoning enforcement officer or the Commission, provided that changes which materially alter the approval being sought will typically not be allowed as amendments but will generally require a new application. Any amendment to the application must receive prior approval of the zoning enforcement officer.
- [11] *Time for decision on application: tolling and extensions.* Time for hearing, decision and/or issuance on any application shall not run until such application is deemed complete. Once an application is deemed complete, final decisions on applications and/or issuance of permits shall be made by the Commission and/or the zoning enforcement officer as appropriate within the time periods provided in this Resolution, provided that the time for decision and/or issuance shall be tolled and shall not run during (and/or shall be extended for the duration of) any period:
 - (a) in which the zoning enforcement officer or the Commission deems the application incomplete or not in compliance with this Resolution, or as otherwise requiring more information;
 - (b) in which the applicant has requested a deferral or continuance of the hearing or decision;
 - (c) as may be necessary to allow for at least thirty (30) days following receipt of written evidence of any required approval by an outside agency prior to any decision on an application;
 - (d) where approval of one application is contingent on approval of some other application before the Commission, as necessary to allow for at least thirty (30) days following approval of the first application prior to any decision on the contingent application;
 - (e) as necessary to allow a reasonable time [not to exceed thirty (30) days] for staff to investigate and respond, where necessary, to any amendment to an application and/or to any new information provided by an applicant or opponents to the application;

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- (f) as required to allow for a second Commission vote (and decision) on the merits of an application under 27.18[5] due to the failure to receive a majority, provided that in such instance the second vote shall be taken at either the next regular meeting after the first vote or as soon as possible thereafter;
 - (g) not to exceed sixty (60) days [thirty (30) days in the case of sign permits] where the Commission has determined that good cause exists for such an extension in order to allow for a fair and informed decision; and
 - (h) as required to conform with the state regulatory procedure for consideration of Developments of Regional Impact.

(Added July 11, 2022, ZA22-001)

Section 27.10. Permitted and Limited uses.

[1] *Issuance.*

(a) As provided in Section 4B.04 of this Resolution, a permitted use is allowed in the district in which the land is situated, upon approval and issuance of a certificate of zoning compliance by the zoning enforcement officer.

(b) As provided in Section 4B.04, a limited use is allowed in the district in which the land is situated provided that the use meets the additional standards imposed on such use under this Resolution, upon approval and issuance of a certificate of zoning compliance by the zoning enforcement officer.

(c) Where a proposed use is a permitted or limited use and the application for such use is deemed complete and in compliance with this Resolution, a certificate of zoning compliance may be issued by the zoning enforcement officer without a public hearing if such use complies with all applicable requirements of this Resolution and any conditions imposed by such officer.

[2] *Time for issuance.* The zoning enforcement officer shall issue (with or without conditions) or deny an application for a certificate of zoning compliance within twenty (20) business days of the date the application for the same is deemed complete or after any conditions required to be met prior to issuance are met, whichever is later, subject to tolling or extension of that time period as provided under Section 27.09. If such decision is not made within such time, the certificate shall be deemed to be issued.

(Added July 11, 2022, ZA22-001)

Section 27.11. Conditional Use permits.

[1] *Definition.* As provided in Section 4B.04, a conditional use (including any proposed structure or other development) is only allowed after the Commission, upon review of the application in light of the applicable criteria listed below and after a hearing on the same, approves such use as being in the public interest and, upon compliance with any conditions imposed by the Commission, after a certificate of zoning compliance is issued by the zoning enforcement officer.

[2] *Criteria for approval.* The Commission shall consider the proposed use in relation to the following criteria, where applicable:

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- (a) Whether the proposed use is consistent with the comprehensive plan and compatible with the existing land use pattern and will not be detrimental to appropriate and lawful use and development of the properties in the area in which it is proposed to be situated;
 - (b) Whether the proposed use will provide adequate and safe access to both nonmotorized and motorized traffic and whether the proposed use will facilitate or hinder orderly, safe and desirable road development and transportation in the area of such use;
 - (c) Whether the proposed use will be adequately served and accessed by essential public facilities and services and will not overtax such facilities;
 - (d) Whether the proposed use will have an adverse impact on either the community at large or adjacent or nearby properties due to causing fire, health or safety hazard, crime or other public safety problems, nuisance, drainage problems, noise, light, smoke or other contaminants, odor, electrical interference, aesthetic issues, pollution to land, air or water, damage to property values of adjacent or nearby properties or due to any other causes;
 - (e) Whether the design and scale of any structures and landscaping on the tract in question will be aesthetically pleasing and in harmony with the surrounding area.
 - (f) Whether the proposed use at the specified location will contribute to or promote the welfare or convenience to the public;
 - (g) Whether the proposed use will have an adverse impact on environmentally sensitive land or natural features, wildlife habitat and vegetation, significant archeological features, water or air quality; and
 - (h) Whether denial of the proposed use will have an unjustified and significant hardship on the owner of the property on which the use is proposed, including but not limited to whether there are substantial reasons why the property cannot be used either for a permitted use or a more appropriate or less harmful conditional use.
- [3] *Time for decision and issuance on conditional use permits, generally.* Except as to signs, the Commission shall approve (with or without conditions) or disapprove all applications for conditional use deemed complete as soon as reasonably feasible, but at any rate within one hundred twenty (120) days of the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. Applications for conditional use approved by the Commission shall be issued by the zoning enforcement officer within fifteen (15) business days of such approval or within three (3) business days after the applicant has shown that all conditions required to be met prior to issuance have been met, whichever is later.
- [4] *Time for decision and issuance on conditional use permits, as to signs.* The Commission shall approve (with or without conditions) or disapprove all applications for conditional use permits for signs deemed complete as soon as reasonably feasible, but at any rate within forty-five (45) days, or by the next regular meeting after such forty-five (45) days, from the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. If such decision is not made within such time, the application shall be deemed approved as to any such permit. Applications for conditional use permits for signs shall be issued by the zoning enforcement officer within five (5) business days of such approval or within three (3) business days after all conditions required to be met prior to issuance have been met, whichever is later.

(Added July 11, 2022, ZA22-001)

Section 27.12. Special application requirements for certain uses, structures, and lands.

Without limitation, and in addition to application requirements in Section 27.09, the following uses, structures and lands have special application requirements for permits, as provided below:

- [1] *Uses requiring Health Department approval.* An application concerning any uses requiring approval of the Macon-Bibb County Health Department or Fire Department under either federal, state or local law must be accompanied by evidence of such approval.
- [2] *Explosives and flammable products.* An application for storage of explosives, ammunition, blasting agents, and above-or below-ground storage of flammable or combustible products must be accompanied by written approval of the Macon-Bibb County Fire Department.
- [3] *Early care and learning facilities.* Applications for permits for day care centers, day care homes, kindergartens, or play schools must contain the following: approval or conditional approval from the Macon-Bibb County Health Department and the Macon-Bibb County Fire Department and any licensing required under state, federal or local law, as applicable.
- [4] *Signs.* Supplemental provisions for applications for sign permits are provided in Chapter 25. No application for a sign permit that is dependent on or related to a particular use shall be deemed complete until any use permit required under this Resolution for such use has been approved and issued. No such dependence or relationship shall be determined by the content of any sign but rather by the nature of the application. (For example, signage as allowed for a business park cannot be applied for until a permit for a business park has been granted.)
- [5] *Manufactured homes.* Applications for manufactured homes shall be accompanied with a picture, brochure, blue print, or other visual means of depicting the proposed manufactured home.
- [6] *Land in flood hazard districts.* Within the area of Macon-Bibb County lie lands which are identified as being within flood hazard districts. These lands are identified on the national flood insurance rate maps for Macon and Bibb County, Georgia dated August 2, 1990, and the "Flood Insurance Study for the City of Macon and Bibb County, Georgia," prepared by the Federal Emergency Management Agency dated August 2, 1990, as they may be amended from time to time. As to any such lands situated in a flood hazard district as identified in the aforementioned maps, no zoning permit may be issued until a floodplain development permit has been obtained from the Consolidated Government of Macon-Bibb County.

(Added July 11, 2022, ZA22-001)

Section 27.13. Variances.

- [1] *Definition.* A variance is the right to develop or build on land in a way prohibited by strict application of this Resolution that allows an owner to build structures or develop his land in a manner that would otherwise violate certain dimensional, area or other physical requirements in this Resolution so long as the owner complies with all use or other restrictions on the property.
- [2] *Criteria for variances:*
 - (a) Subject to the limitations listed in subpart (b), below, the Commission may grant variances from the strict application of this Resolution where:
 - (i) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the

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- strict application of these regulations would impose unusual and practical difficulties, or undue hardship, upon the owner of such property and is not a mere inconvenience;
- (ii) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions and avoid undue hardship;
 - (iii) Such variance can be granted without substantial impairment to the intent, purpose and integrity of this Resolution, the comprehensive plan or any other plan approved for the property by the Commission; and
 - (iv) Such variance will not be substantially or unfairly detrimental to the use and enjoyment of adjoining or neighboring properties or to the community at large.
- (b) Notwithstanding the above, the Commission may refuse to grant a variance where the hardship is created by action or will of the person seeking the variance or where the act creating a violation of this Resolution for which a variance is required was intentional, deliberate or the result of gross negligence. Variances cannot be granted for use of land or structures not permitted or prohibited, or to increase the density of development for a tract of land beyond that permitted by the zoning district.
- [3] *Approval by the zoning enforcement officer of certain variances.* The zoning enforcement officer may grant permits for variance from the development standards of this Resolution where in his opinion the applicant meets all requirements of this section, including the criteria listed above, but only in the following limited circumstances:
- (a) Variances to yard (building setback distance) requirements (except in planned development districts) as follows:
 - (i) Front yard or yard adjacent to public street not to exceed five (5) feet;
 - (ii) Side yard not to exceed three (3) feet; and
 - (iii) Rear yard not to exceed five (5) feet;
 - (b) Variance on distances between buildings on the same lot, with fire department approval;
 - (c) Variances in the location of bona fide accessory buildings provided that no safety hazards are created by the location or use of the structures; and the applicant provides a written statement from adjacent property owner(s) that they have no objection to the location of the structures; and
 - (d) Parking variances not to exceed five (5) percent of that required.
- [4] *Time for issuance of variances by zoning enforcement officer.* Where the zoning enforcement officer is authorized to issue a variance without Commission approval, the zoning enforcement officer shall issue (with or without conditions) or deny an application for a variance within twenty (20) business days of the date the application for the same is deemed complete or after any conditions required to be met prior to issuance are met, whichever is later, subject to tolling or extension of that time period as provided under Section 27.09.
- [5] *Time for Commission decision and issuance on variances, generally.* Except as to signs, where Commission approval is required, the Commission shall approve (with or without conditions), or disapprove an application for a variance permit deemed complete as soon as reasonably feasible, but at any rate within one hundred twenty (120) days of the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. Applications for variance approved by the Commission shall be issued by the zoning enforcement officer within fifteen (15) business days of such approval or after all conditions required to be met prior to issuance have been met, whichever is later.

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- [6] *Time for Commission decision and issuance on variances, as to signs.* Where Commission approval is required, the Commission shall approve (with or without conditions), or disapprove all applications for variance permits for signs deemed complete as soon as reasonably feasible, but at any rate within forty-five (45) days, or by the next regular meeting after such forty-five (45) days, from the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. If such decision is not made within such time, the application shall be deemed approved as to any such permit. Applications for variances for signs shall be issued by the zoning enforcement officer within five (5) business days of Commission approval or after all conditions required to be met prior to issuance have been met, whichever is later.

(Added July 11, 2022, ZA22-001)

Section 27.14. Certificates of appropriateness.

- [1] *Definition.* A certificate of appropriateness is a certification that performance criteria and design guidelines have been complied with prior to certain work on land or structure(s) (or construction of a new structure) being done in design review districts, pursuant to Chapter 28.
- [2] *Procedure and criteria.* Supplemental procedures and criteria governing applications for certificates of appropriateness are provided in Chapter 28, as well as in the design guidelines for each design review district, provided that the general procedures of this chapter govern where such procedures are not in conflict with or superseded by the provisions of Chapter 28.
- [3] *Time for issuance of certificates of appropriateness by zoning enforcement officer.* Where the zoning enforcement officer is authorized to issue a certificate of appropriateness without Commission approval, the zoning enforcement officer shall issue (with or without conditions), deny or refer the same to the Commission within twenty (20) business days of the date the application for the same is deemed complete or after any conditions required to be met prior to issuance are met, whichever is later, subject to tolling or extension of that time period as provided under Section 27.09.
- [4] *Time for Commission decision and issuance on certificates of appropriateness, generally.* Except as to signs, where Commission approval is required, the Commission shall approve (with or without conditions) or disapprove an application for a certificate of appropriateness deemed complete as soon as reasonably feasible, but at any rate within one hundred twenty (120) days of the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. Applications for certificate of appropriateness approved by the Commission shall be issued by the zoning enforcement officer within fifteen (15) business days of such approval or after all conditions required to be met prior to issuance have been met, whichever is later.
- [5] *Time for Commission decision and issuance on certificates of appropriateness, as to signs.* Where Commission approval is required, the Commission shall approve, approve with conditions or disapprove all applications for variance permits for signs deemed complete as soon as reasonably feasible, but at any rate within forty-five (45) days, or by the next regular meeting after such forty-five (45) days, from the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. If such decision is not made within such time, the application shall be deemed approved as to any such permit. Applications for certificates of appropriateness as to signs shall be issued by the zoning enforcement officer within five (5) business days of such approval or after all conditions required to be met prior to issuance have been met, whichever is later.

(Added July 11, 2022, ZA22-001)

Section 27.15. Subdivision Plats.

- [1] *Procedure and specifications.* Supplemental provisions applicable to procedure and specifications relating to applications for approval of a plat for the subdivision of land in design review districts are provided in Chapter 29.
- [2] *Approval by zoning enforcement officer.* Pursuant to Chapter 29 (§ 29.01), approval by the zoning enforcement officer (as well as all other designated agencies and departments) is required prior to the filing of any plats for the subdivision of land.
- [3] *Time for approval.* The zoning enforcement officer shall issue (with or without conditions) or deny an application for preliminary or final approval of a subdivision plat within twenty (20) business days of the date the application for the same is deemed complete or after any conditions required to be met prior to issuance are met, whichever is later, subject to tolling or extension of that time period as provided under Section 27.09.

(Added July 11, 2022, ZA22-001)

Section 27.16. Amendments to text of this Resolution.

- [1] *Initiation of amendments.*
 - (a) The text of this Resolution may be amended in whole or in part by the Commission on its own motion and in its sole discretion.
 - (b) Any citizen of Macon-Bibb County or any interested person may request the Commission to amend the text of this Resolution. The Commission shall give due consideration to any and all such requests, and, if, in its sole discretion, it deems such action advisable, may initiate an amendment in response to the same.
 - (c) Any owner of property, or authorized agent of such owner, may file an application for a text amendment directly affecting the use or structure(s) allowed on such property.
 - (d) No amendment to the text of this Resolution shall be made without due notice and a public hearing on the same.
- [2] *Procedure for requests and applications for amendments to the text of this Resolution.*
 - (a) Any suggested amendment to the text of this Resolution, whether submitted as a request or application, should be in the style and format of this Resolution.
 - (b) Requests for text amendments that are not filed as applications should include a written statement giving the reasons for the proposed change. Requests for text amendment(s) of the text made without formal application may be considered by the Commission but will be addressed only as deemed feasible and appropriate within the Commission's legislative discretion. No decision will necessarily be made by the Commission on such requests, and no hearing will necessarily be provided, except at the discretion of the Commission or where required by law.
 - (c) Applications for text amendments (as opposed to mere requests) deemed complete will be granted a hearing as soon as reasonably feasible, but at any rate within one hundred twenty (120) days of the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09. Decisions on such applications are within the Commission's legislative discretion and are not subject to a specific time limit.

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- [3] *Criteria for amendments.* In considering proposed amendments to the text of this Resolution, the Commission shall consider, within its legislative discretion:
- (a) The need and justification for the change;
 - (b) Whether the proposed amendment is consistent with the purposes and objectives of the comprehensive plan and this Resolution, with appropriate consideration where appropriate as to whether the proposed change will further the purposes of other county codes and regulations;
 - (c) Any other lawful criteria the Commission deems relevant and appropriate.

(Added July 11, 2022, ZA22-001)

Section 27.17. Amendments to the official zoning maps (rezonings).

- [1] *Initiation of amendments:*
- (a) The Commission may rezone any or all property subject to its jurisdiction on its own motion and in its own discretion.
 - (b) An owner (or authorized agent of such owner) of property in Macon-Bibb County may file an application to rezone such property.
 - (c) Any citizen of Macon-Bibb County or interested person may request the Commission to rezone property. The Commission shall give due consideration to any and all such requests, and, if it deems it advisable and in its sole discretion, may initiate an amendment in response.
 - (d) No zoning or rezoning shall be made without due notice and a public hearing on the same.
- [2] *Procedure for requests for rezoning.* Any citizen requesting (but not applying for) a rezoning of property should provide a written statement giving the reasons for the proposed change. No decision will necessarily be made by the Commission on such requests, and no hearing will necessarily be provided, except at the discretion of the Commission.
- [3] *Procedure for rezoning applications.* In addition to the information required for applications generally in § 27.09, an application for any rezoning shall contain the following information:
- (a) A description of the rezoning requested and the use proposed, including the reason for the change; and
 - (b) A map, plat and/or legal description that accurately identifies the dimensions, metes and bounds, acreage and location of the tract(s) to be rezoned and its relationship to adjoining properties, public facilities, and services.
- [4] *Criteria for amendments to official zoning maps (rezonings).* The Commission, in reviewing applications for amendments to the official zoning maps, shall consider the proposed change in relation to the following, where applicable:
- (a) The existing uses and zoning of nearby property;
 - (b) The suitability of the subject property for the currently zoned purposes, including but not limited to its marketability and whether it has reasonable economic use;
 - (c) Whether the relative gain to the public from the current zoning outweighs the hardship imposed upon the subject property owner by such zoning;
 - (d) Whether the proposed rezoning is consistent with the policy and intent of the Comprehensive Plan and will promote the health, safety morals or general welfare of the public;

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- (e) Whether the proposed rezoning will allow uses that are suitable in view of the existing use, zoning and development of adjacent and nearby property and will not adversely affect such property; and
 - (f) Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
- [5] *Time for decision on applications for rezonings.* The Commission shall approve (with or without conditions and/or as amended) or disapprove all applications for rezoning deemed complete as soon as reasonably feasible, but at any rate within one hundred twenty (120) days of the date the application is deemed complete, subject to tolling or extension of that time period as provided under Section 27.09.
 - [6] *Planned development districts.* Procedures for applications to rezone to planned development districts are governed by Chapter 19, provided that the general procedures of this chapter govern where such procedures are not in conflict with or superseded by the provisions of Chapter 19.
 - [7] *Design review districts.* Procedures for applications to rezone to design review districts are governed by Chapter 28, provided that the general procedures of this chapter govern where such procedures are not in conflict with or superseded by the provisions of Chapter 28.
 - [8] *Legal effect of rezonings.* Rezonings do not constitute land use approval or approval of any site or development plan that may have been submitted in conjunction with an application to amend the official zoning maps. For any proposed use or occupancy of the land affected by the amendment, or construction, alteration, or modification of any structure or buildings on such or tract(s) of land, a permit (and/or certificate of appropriateness if in a design review district) must first be obtained.
 - [9] *Denied rezonings.* Whenever the Commission has defeated an application for a rezoning by a majority vote against the application, it shall not thereafter consider any further application to rezone on any part or all of the same property for a period of six (6) months from the date of final denial of the application by the Commission.

(Added July 11, 2022, ZA22-001)

Section 27.18. General procedures for Commission meetings and votes.

- [1] *Public meetings.* All meetings, including hearings, of the Commission shall be open to the public as required under the Georgia Open Meetings Act and Zoning Procedures Law and any other applicable law, except to the extent and in the event closure may be authorized under such Act or other applicable state or federal law.
- [2] *Notice.* Public notice of meetings shall be as required under the Georgia Open Meetings Act and Zoning Procedures Law and any other applicable law.
- [3] *Quorum.* Not less than three (3) members of the Commission shall constitute a quorum.
- [4] *Presiding officer.* The Commission shall select a chair and vice-chair. The chair, or the vice-chair in the chair's absence, shall preside over all meetings, including hearings. In the absence of both the chair and vice-chair, the chair may select a presiding officer. If the chair fails to do so, the members present and able to vote may select a presiding officer for the meeting or hearing.
- [5] *Votes.* All actions or decisions, whether to approve or disapprove an item or take some other action with respect to it, shall require the affirmative vote of at least three (3) members of the Commission. In the event that any item voted upon fails to receive either the support or opposition of three members, such item shall be deferred to a subsequent meeting of the Commission. Any application which fails to achieve a majority on a vote on the merits of the application at such subsequent meeting shall be

deemed to be disapproved. Except as set out herein, if the occurrences of the necessary total affirmative votes shall fail to be achieved for any reason, then the matter being voted upon shall be held to be denied.

- [6] *Regular and special meetings.* All regular meetings of the Commission to act upon appeals, applications, enforcement, legislative and/or other regulatory matters shall be held on the second and fourth Mondays of each month at 1:30 pm. An administrative meeting shall take place at 12:30 p.m. on the same date, which will also be open to the public. Special meetings may be called when necessary and for the purpose stated in the call, as provided for under the Georgia Open Meetings Act. Special meetings may be called by either the chair or any three members of the Commission.
- [7] *Minutes and Records.* The Commission shall keep minutes of its meetings and records of meetings shall be prepared and open to public inspection as required by the Georgia Open Meetings and Open Records Acts.
- [8] *Adjournment.* The Commission may adjourn any meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for a resumption of such meeting if the time and place of that resumption is stated at the time of adjournment and is not changed after adjournment.

(Added July 11, 2022, ZA22-001)

Section 27.19. Procedure for public hearings.

- [1] *General meeting procedures apply.* General procedures as provided in Section 27.18 for meetings, quorums and voting apply to public hearings except to the extent such procedures are supplemented or superseded by the procedures provided in this section or other applicable law.
- [2] *Notice.* Before conducting any public hearing, public notice shall be given as described in this section and as required under the Georgia Zoning Procedures Law and other applicable law. Such notice is the minimum notice required and the zoning enforcement officer may give such additional notice as in his (or the Commission's) discretion may be necessary and/or helpful to insure adequate public notice of the proposed hearing. Public notice shall be as follows:
 - (a) Publishing a notice of the hearing in a newspaper of general circulation within the territorial boundary of Macon-Bibb County not less than fifteen (15) nor more than forty-five (45) days prior to the scheduled date of the public hearing. The notice shall state the time, place and purpose of the hearing.
 - (b) If a rezoning of property is initiated by a party other than the Commission, then:
 - (i) the notice referenced in subpart (a), above, in addition to the requirements of that subpart, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and
 - (ii) a sign shall be placed in a conspicuous location on the property not less than fifteen (15) days prior to the date of the hearing to be held on the application. Such sign shall display the term "REZONING" and shall provide a phone number and website address from which interested parties can obtain further information. More than one sign may be posted if, in the opinion of the zoning enforcement officer, one sign would not give adequate notice.
 - (c) Subpart (b), above, shall not apply to amendments of the text of this Resolution, including but not limited to amendments to the text adding, deleting or modifying permitted or conditional uses, requirements or conditions in zoning districts.

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- [3] *Times for hearings.* Public hearings shall be held at regularly scheduled meetings of the Commission except where special meetings are called for such hearings.
- [4] *Submissions prior to a hearing.*
- (a) All applicants and other interested parties, whether opposing or supporting an application or other item, may submit written, digital, graphic, audiovisual or other evidence relevant to the item for the Commission's consideration prior to the hearing on the item, up to five o'clock p.m. on the Wednesday just prior to any regularly scheduled hearing date (second and fourth Mondays of each month), or by five o'clock p.m. three business days prior to any specially scheduled hearing. Materials submitted after that time must be submitted by a party or its representative personally at the hearing itself, as provided below.
 - (b) Material submitted for consideration by the Commission on an application prior to the hearing should be submitted to the zoning staff, electronically where possible. Otherwise, a copy should be provided to the zoning staff at the Commission offices. Such material, including any staff reports, shall be publicly available prior to the hearing, either on the Commission website, or upon request to Commission staff.
- [5] *Submissions by applicants and interested parties at a hearing.* Any interested party may submit written, digital, graphic, audiovisual or other evidence relevant to the application to the Commission to consider at the hearing on the application. Seven copies of such written or graphic materials must be provided to the Commission. A copy of any audiovisual material, including power-point presentations or any other electronic displays as well as printed material, must also be provided to the Commission, either in hard copy or electronically, for adding to the record. Any material submitted at a hearing to the Commission must also be available for inspection by any interested party at the time it is submitted to the Commission.
- [6] *Evidence.* Adherence to the rules of evidence of a trial at law shall not be required. The Commission may allow such latitude on the receipt of evidence as the rule of fair play may require or allow, provided that the Commission may limit the presentation of redundant or irrelevant evidence and enforce proper decorum.
- [7] *Burden of proof.* An applicant for any certificate, permit, plat approval or rezoning shall have the burden of proof in going forward with the evidence and burden of persuasion on all questions of fact relevant to the application.
- [8] *Order of proceedings.* Unless altered by the Commission in its discretion, all hearings shall proceed in the following order:
- (a) Statement by Commission representative explaining the nature of the action to be taken;
 - (b) Oral presentation of staff report, if requested by any Commissioner;
 - (c) Presentation by applicant, its representatives and other persons in support of the application;
 - (d) Presentation of interested parties in opposition to application; and
 - (e) Closing presentation by the applicant in response to presentation of opponents.
- [9] *Witnesses and Presentations.* Each person testifying before the Commission shall take an oath to tell the truth prior to doing so. The Commission may also at any time request the staff, Commission attorney or any other person to make a presentation to ensure a complete record upon which the decision must be based.
- (a) *Signing in and addressing the Commission.* All persons wishing to address the Commission, or question anyone addressing the Commission, must register with the Commission zoning staff. Registration may be done online at the Commission website or at the hearing. When addressing

the Commission, whether testifying or asking a question, each person doing so should come to the table and state their name and address for the record before they begin their presentation and should restate their name each time they return to the table to address the Commission.

- (b) *Questions.* After both sides have finished their presentations, the Commission, if requested, will allow questions by interested parties of persons testifying for the other side (from the questioner). Redundant and/or irrelevant questioning may be limited or terminated by the presiding officer. Hostile questioning which disrupts or interferes with the hearing procedures is prohibited and will be terminated by the presiding officer. Answers should be truthful and responsive to the question asked. Questions should be directed for the purpose of obtaining truthful information for the enlightenment of each side and the Commission, not for the purpose of argument. The Commission and/or its staff or attorney may ask questions of any person testifying at any time for purpose of clarifying or completing the record.
- [10] *Time limits.* The presiding officer may establish appropriate time limits for argument and presentation by proponents of the application as well as opponents, provided that, in any event, such time limit shall be equal for both sides and shall be not less than fifteen (15) minutes for each side on each agenda item (including any rebuttal or response time). The presiding officer may request representatives of each side to speak for the entire group or portions of the group but shall not require such representation against the wishes of the group or individuals involved.
- [11] *Continuance.* Any applicant or interested person may request the Commission to grant a continuance of the hearing at the hearing on an application, in order to provide additional information. The Commission may or may not defer or continue any hearing, and postpone any decision, in its own discretion, at any time, subject to time constraints provided in this Resolution. Where the Commission approves a continuance of a hearing during such hearing and states the time and place to which the hearing will be continued at such time, no further public notice shall be necessary as long as the time and place for the resumption of the hearing are not changed from that announced.
- [12] *Applicant's failure to Appear.* The applicant shall appear at the public hearing or be represented at such hearing by an agent, attorney or any other party on the applicant's behalf. Upon a failure to appear by an applicant or his representative, the Commission in its discretion may either defer the item or, unless there are extenuating circumstances justifying the failure to appear, deem it to be a withdrawal of the application. Notwithstanding the above, where there is no opposition expressed, the Commission may approve applications for certificates of appropriateness and permits pursuant to subpart [16], below, as part of a consent agenda, whether or not an applicant or his representative are present.
- [13] *Record* The record of the hearing shall consist of all timely submissions to the Commission from staff as well as interested parties prior to the hearing; evidence and testimony offered at the hearing; and applicable parts of this Resolution and the comprehensive plan. Prior to the hearing, the staff shall provide access to any nonprivileged studies, reports or other materials submitted to the Commission relevant to the application by publication on the Commission website if feasible, or, upon request, directly to any person pursuant to the Georgia Open Records Act.
- [14] *Due process.* Due process as required by law shall be provided.
- [15] *Drug rehabilitation centers and facilities.* Notwithstanding any other provisions of this Resolution, procedure, timing and notice for hearings on half-way houses, drug rehabilitation centers and other facilities for the treatment of drug dependency shall comply with the requirements of O.C.G.A. § 36-66-4(f) and other applicable law.
- [16] *When hearings required; consent agenda.* Public hearings shall be provided as required by law wherever Commission action is required on applications and other matters. Notwithstanding the above, applications for permits and certificates of appropriateness may be approved by the Commission as part of a consent agenda, without a hearing, where there is no opposition expressed to

the application, and it is clear that the application meets all requirements under this Resolution for approval. However, if any interested person or any Commissioner objects to placement of an item on such consent agenda prior to the vote on that agenda, that item will be removed from the consent agenda and a hearing shall be provided.

- [17] *Decisions.* Where a hearing is conducted, the Commission in its discretion may vote on an application at the close of that hearing or at a subsequent time, allowing additional time for deliberation and/or for drafting of written findings. The decision itself may or may not be accompanied by written findings. No further testimony from either side is allowed during the Commission's deliberations or vote, provided that the Commission may reopen testimony or allow additional evidence or material prior to its decision whenever it deems this to be advisable for either clarification or to complete the record. The Commission clerk shall file and record all quasi-judicial and legislative decisions of the Commission in a timely manner as directed by the Executive Director.
- [18] *Remote participation in states of emergency.* Where a state of emergency has been officially declared but only to the extent allowed by applicable law and consistent with due process, the Commission may, in its discretion, provide for remote participation in and/or conduct zoning and other administrative hearings by either videoconference or teleconference.
- [19] *State law.* Notwithstanding any other provision in this Resolution, all hearings and decisions of the Commission—as to notice and procedure—shall comply with any and all applicable state law, including but not limited to the state Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.).

(Added July 11, 2022, ZA22-001)

Section 27.20. Appeals from acts or decisions of zoning enforcement officer.

- [1] *Applicability.* This section shall apply only to decisions of the zoning enforcement officer in his regulatory role of administering or enforcing the terms of this Resolution. It shall not apply to appeals from personnel decisions of the executive director.
- [2] *Time for appeal.* All decisions or acts of the zoning enforcement officer in the administration of this Resolution shall be final fourteen (14) days after said decision or act unless an application for appeal is timely filed with the Commission. Any person aggrieved by any decision or act of the zoning enforcement officer in the administration of this Resolution may file an application for an appeal in writing with the Commission within fourteen (14) days of the act or decision being appealed.
- [3] *Application.* The application for an appeal should clearly and succinctly state the zoning enforcement officer's decision or act and explain the bases on which it should be reversed or modified.
- [4] *Commission decision.* Upon a timely appeal, the Commission, may, after a hearing, affirm, modify or reverse, wholly or in part, the order or other decision or action of the zoning enforcement officer. Any such appeal shall be decided within forty-five (45) days of the appeal being filed, or the first regular meeting after such forty-five (45) day period.

(Added July 11, 2022, ZA22-001)

Section 27.21. Appeal from, and actions against, Commission decisions.

Any person aggrieved by any quasi-judicial decision of the Commission shall have the right to appeal and the appeal shall be taken by Petition for Review under Title 5 of the O.C.G.A. in Bibb County State or Superior Court or as otherwise provided for under state law. Pursuant to O.C.G.A. § 5-3-7(h), the Commission clerk may accept

service of any petition for review. As provided under O.C.G.A. § 36-66-5.1(a)(1), any person aggrieved by any legislative action of the Commission may file for equitable relief under Title 23 of the O.C.G.A. or declaratory relief under Chapter 4 of Title 9 in Superior Court or as otherwise provided under state law, and the executive director or, in his absence, the Commission clerk, shall be the officers upon whom service of any Complaint against the Commission for such relief may be effected or accepted on behalf of the Commission, during normal business hours (8:30 a.m. to 5:00 p.m.), at the regular offices of the Commission at 3661 Eisenhower Parkway, Suite MB104, Macon, Georgia 31206.

(Added July 11, 2022, ZA22-001)

Section 27.22. Noncompliance with conditions.

- [1] Any use, alteration or development of land or any construction, erection, alteration or modification of a building or structure must comply with any and all conditions imposed by the Commission or the zoning enforcement officer in connection with approval of an application, or issuance of a permit. In the event any such conditions are not being complied with, the Commission is authorized, after due notice to all parties concerned and after granting full opportunity for a public hearing, to suspend, revoke or rescind approval and/or issuance of any application, certificate of appropriateness, permit, plat, rezoning or other matter.
- [2] Noncompliance with the aforesaid conditions shall be a violation of this Resolution, and a misdemeanor, and shall subject the applicant to enforcement proceedings under Chapter 33. Such conditions shall also be deemed contractual, and, in lieu of or in addition to any other remedies, the Commission may bring such legal actions against the applicant, his heirs, successors, assignees, and transferees as are required to bring compliance with, and specific performance of, such conditions.
- [3] The Commission is authorized to request and obtain investigations and reports as to compliance from such county or state agencies or administrative officers as may be appropriate.

(Added July 11, 2022, ZA22-001)

Section 27.23. Noncompliance with representations by applicant.

- [1] Approval of all applications shall be in reliance on all representations by the applicant, whether in the application or other submissions or statements made to the Commission or its staff. All supportive documentation including, but not limited to, site plans, drainage plans, and statements of intent shall be considered a part of the application and any amendments thereto. Representations, written or oral, of applicant or its representatives to the Commission or the Commission's staff, shall become part of the application and shall be deemed contractual. Any use, alteration or development of land or any construction, erection, alteration or modification of a building or structure must conform to the application and any amendments thereto.
- [2] Any use, alteration or development of land or any construction, erection, alteration, or modification of a building or structure which is materially different from representations in the application (unless authorized or required by the Commission), shall be a violation of this resolution and will be subject to enforcement by the Commission in the same manner as noncompliance with a condition of approval of an application referenced in Section 27.22.
- [3] The Commission is authorized to request and obtain investigations and reports as to compliance from such county or state agencies or administrative officers as may be appropriate.

(Added July 11, 2022, ZA22-001)

Section 27.24. Error, false statements.

It shall be a violation of this Resolution to intentionally make any misrepresentations or omissions of fact, oral or written, to the Commission or the staff in, or in connection with, any application. No permit, certificate of appropriateness or plat issued in error, whether legal or factual, shall confer any rights or privileges to the applicant to proceed with construction, other work, occupancy or use. Any rezoning, permit, plat or certificate which has been approved or issued based upon such error or upon an application containing materially false or misleading information, or any materially false or misleading information supplied by the applicant or his representative, may be rescinded or revoked by the Commission, and the zoning enforcement officer may issue a cease and desist order in accordance with Chapter 33, pending a hearing and decision by the Commission on such order.

(Added July 11, 2022, ZA22-001)

Section 27.25. Nuisance.

The granting of a permit by the Commission for the use of land or buildings, or construction, alteration or work on the same, does not confer upon the permittee the right to use, construct, alter or work on such land or building in a manner that would create a nuisance. Whenever a court of competent jurisdiction, pursuant to the provisions of the Official Code of Georgia Annotated, Title 41, "Nuisances," or the Macon-Bibb County Code of Ordinances, shall make a finding that a nuisance exists relative to such use, construction, alteration of or work on land or buildings, the Commission may, after a public hearing, order the owner(s) and/or occupant(s) to abate the activity creating the nuisance. Any failure to comply with such order may result in the suspension, rescission or revocation of any permit, plat or certificate approved or issued by the Commission for such activity. Such hearing will not be a de novo hearing on the merits of the question resolved by the courts. Failure of the owner(s) or occupant(s) to comply with such Commission directive shall be a violation of this Resolution and the Commission may take such action(s) as authorized pursuant to Chapter 33.

(Added July 11, 2022, ZA22-001)

Section 27.26. Expiration of permit.

Permits for uses and structures shall expire twelve (12) months after date of approval of such permit if actual construction, as defined in Section 1.02, has not begun or at any time a project is abandoned. Any use or structure will be deemed abandoned after such use is discontinued or such structure is vacated for a continuous twelve (12) month period. The zoning enforcement officer may, upon application, grant one (1) extension, not to exceed six (6) months, where he determines that the denial of such extension will impose an unreasonable hardship on the applicant.

(Added July 11, 2022, ZA22-001)