



City Council Meeting - Final

June 05, 2023
7:00 PM

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- B. ORD2023-006** Public Hearing - Approval of ORD2023-006 for amendments to the Code of Ordinance in relation to notification requirements for variance requests, special land use permits, administrative appeals and the Urban Design Commission and authorize the Mayor to sign and execute all related documents.



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: ORD2023-006

Agenda Date: 6/5/2023

In Control: .

File Type: Ordinance

Agenda Section:
Formal Business

Agenda Number: B.

Department: Community Development

Agenda Title:

Public Hearing - Approval of ORD2023-06 for amendments to the Code of Ordinance in relation to notification requirements for variance requests, special land use permits, administrative appeals and the Urban Design Commission and authorize the Mayor to sign and execute all related documents.

Citywide

ISSUE AND BACKGROUND:

HB 1405 was signed into law in 2022 and requires local government compliance by July 1, 2023. HB 1405 amends a portion of the zoning procedures law which regulates meeting notification requirements for quasi-judicial officers, boards, or agencies with delegated powers that hear cases for variances, special land use permits, and administrative appeals. The notification requirements mandate posting signs a minimum of 30 days prior to any hearing, and a legal advertisement a maximum of 45 days and minimum 15 days prior to the hearing. Community Development is proposing amendments that bring the Code of Ordinances into compliance with HB 1405.

RECOMMENDATION / REQUESTED ACTION:

Community Development recommends approval of ORD2023-06 for amendments to the Code of Ordinance in relation to notification requirements for variance requests, special land use permits, administrative appeals and the Urban Design Commission and authorize the Mayor to sign and execute all related documents.

CITY OF SMYRNA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

To: Mayor and Council

From: Russell Martin, AICP, Community Development Director
Joey Staubes, AICP, Planner II

Date: May 22, 2023

CC: Joe Bennett – City Administrator

RE: Notification Requirements

BACKGROUND

HB 1405 was signed into law in 2022 and requires local government compliance by July 1, 2023. HB 1405 amends a portion of the zoning procedures law which regulates meeting notification requirements for quasi-judicial officers, boards, or agencies with delegated powers that hear cases for variances, special land use permits, and administrative appeals. The notification requirements mandate posting signs a minimum of 30 days prior to any hearing, and a legal advertisement a maximum of 45 days and minimum 15 days prior to the hearing. The law also amended the appeal process for legislative and quasi-judicial decisions.

STAFF COMMENTS

Community Development has reviewed the City's Code of Ordinances with respect to notification requirements and is proposing code amendments to the following sections.

Section 1401 and 1402 of the Zoning Ordinance (Appendix A) shall be amended to update variance application notification requirements. The proposed sections shall read as follows (amended portions are highlighted).

ARTICLE XIV. – Zoning Variance

Sec. 1400. Variances.

All requests for a variance from the terms of the Zoning Code ~~relating to setbacks, distance requirements between buildings or other substantially similar dimensional regulations, parking, or accessory structures,~~ except when requested as part of a rezoning, **or a variance that is defined as a request for a "Zoning Decision", as defined by O.C.G.A. § 36-66-3, as may be amended,** shall be heard by the license and variance board as established by city ordinance.

Sec. 1401. – Variance Petitions.

- (a) *Filing of petition.* Variance petitions to the license and variance board may be filed by any person aggrieved by the literal enforcement of the requirements of the Zoning Code. Upon receipt of written petition and filing fee, the city administrator, or his designee, shall, within 30 days, the time required by state law, schedule a hearing to consider the petition and shall notify the petitioner of such hearing.

Sec. 1402. – Notification Required.

- (a) Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

~~The building inspector shall cause to have posted, in a place conspicuous to the nearest public roadway on said property, one or more signs, each of which shall not be less than six square feet in area, and each of which shall indicate that a variance petition has been filed and shall contain the date and time and place of the public hearing. No such public hearing shall take place until said signs have been posted for at least 15 days.~~

Chapter 2, Article IV Boards and Commissions of the Code of Ordinances shall be amended update notification requirements. The proposed sections shall read as follows (amended portions are highlighted).

ARTICLE IV. – Boards & Commissions **Division 1 – Generally**

Sec. 2-141. - License and variance board.

- (a) There is hereby established a license and variance board which shall be a Quasi-Judicial board as contemplated by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia.
- (b) The license and variance board established by this section shall have the following duties:
- (1) Act as a hearing officer for applications for licenses to sell alcoholic beverages as specified in subsection 6-114(b).
 - (2) Hear applications for pawn brokers as specified in subsection 22-109(b).
 - (3) Hear applications for any other license or certificate to be issued by the city for which a public hearing is required, including but not limited to the following: precious metals dealers, massage practitioners, and bail bondsmen.

- (4) Conduct hearings regarding the possible suspension, revocation or other action taken against a license or certificate issued by the city and to impose any sanctions as provided by law.
 - (5) Hear variance requests according to Article XIV of the zoning ordinance.
 - (6) Hear requests for variances from stream buffers established by city ordinance.
 - (7) Approve or disapprove applications in a manner consistent with applicable laws
- (c) Applicants or licensees shall be given notice of the date, time and place when the license and variance board will consider the respective matter. All meetings of the board shall be open to the public.
- ~~(d) The decision of the license and variance board shall be final unless appealed to the mayor and city council within ten days of the date of decision by the license and variance board. Such appeal must be in writing and filed with the city clerk. In the event of an appeal, the mayor and city council, within 30 days of the date the appeal is filed, shall place the matter down for a de novo hearing and take any authorized action concerning the applicant's appeal. Appellants shall be given notice of the date, time and place when the mayor and council will consider the appeal.~~
- (d) ~~(e)~~ The decision of the License and Variance Board may be appealed ~~mayor and city council on an appeal under this article shall be final unless appeal is made to the Superior Court of the Cobb County pursuant to Section 1509.1. The applicant may appeal a decision of the mayor and city council by filing a petition for writ of certiorari to the superior court in the manner provided by state law.~~
- ~~(e)(f)~~ The license and variance board shall have no jurisdiction or authority to hear any appeal from or to reverse, modify or set aside any decision of the mayor and city council.
- ~~(f)(g)~~ The license and variance board shall be composed of three regular members and two alternate members, all of whom shall be appointed by the mayor and city council and who shall serve one-year terms and/or until a successor is appointed, except that such service shall be at the pleasure and discretion of the mayor and council. The alternate member shall only participate in hearings in which a regular member of the board is unable to attend. A quorum shall consist of three regular or alternate members. The City Clerk shall serve as the clerk of the License and variance Board.
- ~~(g)(h)~~ The license and variance board shall meet at such times as is necessary, to be determined by such board, and shall render decisions within a reasonable time. Reasonable time for the purposes of this section shall be no longer than 120 days from the date an application is filed.
- ~~(h)(i)~~ The license and variance board shall select one of its members to serve as chair and one of its members to serve as secretary, to serve at the pleasure of the license and variance board.

Minutes and records of all proceedings shall be kept by the secretary or his/her designee and maintained in the office of the city clerk.

Amend Multiple Sections under Appendix A – Zoning Ordinance of the City Code of Ordinances as follows: Section 1504 to clarify the public hearing requirements, Section 1505 to clarify posting requirements, 1508 to clarify zoning review standards, 1509 to clarify zoning procedures.

Sec. 1504. Public hearing.

Before enacting an amendment to this ordinance, the mayor and council shall hold a public hearing or hearings in the manner specified by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. ~~At least 15 but not more than 45 days prior to the date of hearing, a notice of the date, time and place of the hearing, as well as the nature of the proposed amendment, shall be published in a newspaper having general circulation within the City of Smyrna~~ Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Within a reasonable time from the date of the last hearing on a petition to amend this ordinance, the city council shall render an official decision on the petition.

Sec. 1505. Signs posted.

Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, ~~a proposed amendment to this ordinance involves changing the zoning classification of property from one type of zone to the other, and the rezoning is initiated by a party other than the local government then:~~

- (1) The notice, in addition to the requirements of section 1504 of this code section, shall include the location of the property, the present zoning classification of the property and the proposed zoning classification of the property;
- (2) The required signs shall be placed by the Community Development Department ~~building inspector shall cause to have posted, in a place conspicuous to the nearest public roadway on said property, one or more signs, e~~ Each sign ~~of which shall not be less than six square feet in area, and each of which shall contain the information~~ required herein ~~as to the proposed change and the date and time and place of the public hearing before the city council. No such public hearing shall take place until said signs have been posted for at least 15 days; and—~~
- (3) ~~The applicant shall furnish such other information as is required to facilitate the consideration of the applicable provisions of section 1508 of this article.~~

Sec. 1508. Zoning review standards.

In the consideration of any zoning proposals, the planning commission and mayor and council ~~in shall~~ balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property shall consider the following factors in their determination:

- (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (2) Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property;
- (3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- (4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
- (5) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
- (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
- (7) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area;
- (8) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
- (9) Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.
- (10) Any other factor that the planning commission and mayor and council finds relevant in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property.

Sec. 1509. Zoning procedures.

- (a) There shall be maintained in the office of the city clerk, with a copy on file in the office of the **Community Development Director** ~~building inspector~~, a copy of the zoning map, as adopted and amended from time to time, along with a printed copy of the procedures for zoning or rezoning property in the City of Smyrna.
- (b) The zoning procedures shall state the method of filing application for zoning or rezoning, required notices and advertising, and set forth the general procedure and requirements as stated in the zoning ordinance of the City of Smyrna.
- (c) At the hearing before the planning commission and at the hearing before mayor and council:
 - (1) The applicant shall present the proposed zoning, together with all facts necessary to make a determination on those facts.
 - (2) The opposition, if any, may make a presentation or introduce evidence to support its or their position.

(3) In the event more than one person or group wishes to present evidence, the chairman of the meeting may require one or more persons to act as a spokesman to avoid repetitious testimony.

(4) The chairman of the meeting may limit, within a reasonable time as the circumstance shall dictate, the time allowed for any presentation or rebuttal provided that the proponents and opponents to the proposed zoning decision shall be given at least 10 minutes per side. The proponents and opponents to the proposed zoning decision shall be given equal time.

(5) In the event there is insufficient evidence to make a determination, the hearing may be continued for a reasonable time, from time to time, in the sole discretion of the hearing body.

~~(6) The failure of the applicant to provide sufficient evidence or information, at the earliest opportunity, to make a determination shall be grounds for denial of the application.~~

~~(7) All applications shall be accompanied by the appropriate affidavits and information as required by O.C.G.A. ch. 36-67A of the laws of the State of Georgia and the fees required hereunder.~~

Add Section 1509.1 dealing with Zoning Appeals and Appeals from the License and Variance Board

Sec. 1509.1 Zoning Appeals and appeals from the License and Variance Board

a. Zoning Appeals and appeals from the License and Variance Board shall be taken in the manner specified in O.O.G.A. § 36-66-5.1 and other applicable state laws.

b. The City Clerk, acting as the clerk for the License and Variance Board, shall have the authority to approve or issue any form of certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies as contemplated by O.O.G.A. § 36-66-5.1.

c. Service of such petition may be effectuated or accepted on behalf of the city by service upon the City Clerk as contemplated by O.O.G.A. § 36-66-5.1.

d. The City Clerk is designated as the representative authorized to accept service of an appeal of a decision of the license and variance board as contemplated by O.O.G.A. § 36-66-5.1.

Amend Section 1510 (j) dealing with Special Land Use Notifications

~~(i)(j) Signs posted by the City of Smyrna at least ten 30 days prior to public hearings. It shall be the applicant's responsibility to insure signs remain posted throughout advertisement period.~~

Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title

36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein. It shall be the applicant's responsibility to insure signs remain posted throughout advertisement period.

Amend Sections 1.06, 1.07, 1.08, and 1.09 under Appendix E– Urban Design District of the City Code of Ordinances to change the notification requirements for Urban Design Commission applications.

(f) 1.06. Notification required.

Notice for any hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

~~(f)~~ **(g)** ~~1.06~~ **1.07** *Variance Procedure.*

The Urban Design Commission may grant design exceptions if a proposed project is a unique and exceptional design concept that architecturally enhances the downtown area. ~~Once a design exception is granted by the Urban Design Commission the applicant must seek approval from the license and variance board through the provisions of Article XIV of the Zoning Ordinance.~~

~~(g)~~ **(h)** ~~1.07~~ **1.08** *Appeals Procedure.*

If the UDC denies an application, the applicant may follow normal appeals procedures. ~~The applicant may file an appeal to the Mayor and City Council. At its discretion, the City Council may accept this appeal and shall schedule a Public Hearing to hear public arguments on the matter.~~ Appeals from the decision of the Mayor and Counsel shall be made by a direct appeal made to the Cobb County Superior Court. If the applicant is still not satisfied with the findings of the regulatory bodies within the City of Smyrna, he or she may seek judicial review within the State Court System

~~(h)~~ **(i)** ~~1.08~~ **1.09** *Definitions.*

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purposes of this ordinance, certain words and terms used herein shall be defined as follows:

Architraves—molding around a door or window

Cornice—a horizontal molded projection that crowns or completes a building or wall.

Fenestration—the arrangement of windows in a building

Landscape zones—shall be minimum 5 feet in width and located immediately adjacent to the curb and shall be continuous. This zone may be used for street trees, streetlights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping, or sod.

Lunette—A crescent-shaped or semicircular space, usually over a door or window that may contain another window, a sculpture, or a mural.

Parapet—a low protective wall or railing along the edge of a raised structure such as a roof or balcony.

Muntins/mullions—a strip of wood or metal separating and supporting and holding panes of glass in a window or panels set in series.

Sidewalk clear zones—shall be 10 feet in width and located immediately contiguous to the landscape zone and shall be continuous. Said zone shall be unobstructed for a minimum height of eight feet.

Transom window/panel—a small window or panel above a door that is usually hinged to a horizontal crosspiece over the door.

Amend Section 1702 under Appendix A – Zoning Code of the City Code of Ordinances to change the change the notification requirements for administrative appeals.

Sec. 1702. Procedures.

Any appeal received and all papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted by the community development director to license and variance board. Such appeal shall follow the procedures and notification requirements established under Section ~~1400~~ 1400 -1405 of the Zoning Ordinance.

ORDINANCE 2023-006

AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA AS IT RELATES TO NOTIFICATION, APPEALS, AND OTHER REQUIREMENTS.

Amend Section 2-141 under Chapter 2 – Administration of the City Code of Ordinances to change the notification requirements for License and Variance Board appeals.

Sec. 2-141. - License and variance board.

- (a) There is hereby established a license and variance board which shall be a Quasi-Judicial board as contemplated by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia.
- (b) The license and variance board established by this section shall have the following duties:
 - (1) Act as a hearing officer for applications for licenses to sell alcoholic beverages as specified in subsection 6-114(b).
 - (2) Hear applications for pawn brokers as specified in subsection 22-109(b).
 - (3) Hear applications for any other license or certificate to be issued by the city for which a public hearing is required, including but not limited to the following: precious metals dealers, massage practitioners, and bail bondsmen.
 - (4) Conduct hearings regarding the possible suspension, revocation or other action taken against a license or certificate issued by the city and to impose any sanctions as provided by law.
 - (5) Hear variance requests according to Article XIV of the zoning ordinance.
 - (6) Hear requests for variances from stream buffers established by city ordinance.
 - (7) Approve or disapprove applications in a manner consistent with applicable laws.
- (c) Applicants or licensees shall be given notice of the date, time and place when the license and variance board will consider the respective matter. All meetings of the board shall be open to the public.
- (d) The decision of the License and Variance Board may be appealed to the Superior Court of the Cobb County pursuant to Section 1509.1.
- (e) The license and variance board shall have no jurisdiction or authority to hear any appeal from or to reverse, modify or set aside any decision of the mayor and city council.
- (f) The license and variance board shall be composed of three regular members and two alternate members, all of whom shall be appointed by the mayor and city council and who shall serve one-year terms and/or until a successor is appointed, except that such service shall be at the pleasure and discretion of the mayor and council. The alternate member shall only participate in hearings in which a regular member of the board is unable to attend. A quorum shall consist of three regular or alternate members. The City Clerk shall serve as the clerk of the License and variance Board.

- (g) The license and variance board shall meet at such times as is necessary, to be determined by such board, and shall render decisions within a reasonable time. Reasonable time for the purposes of this section shall be no longer than 120 days from the date an application is filed.
- (h) The license and variance board shall select one of its members to serve as chair and one of its members to serve as secretary, to serve at the pleasure of the license and variance board. Minutes and records of all proceedings shall be kept by the secretary or his/her designee and maintained in the office of the city clerk.

Amend Section 1401 and 1402 under Appendix A – Zoning Ordinance of the City Code of Ordinances to change the notification requirements for Variance petitions.

Sec. 1400. Variances.

All requests for a variance from the terms of the Zoning Code except when requested as part of a rezoning, or a variance that is defined as a request for a “Zoning Decision”, as defined by O.C.G.A. § 36-66-3, as may be amended, shall be heard by the license and variance board as established by city ordinance.

Sec. 1401. – Variance Petitions.

- (a) *Filing of petition.* Variance petitions to the license and variance board may be filed by any person aggrieved by the literal enforcement of the requirements of the Zoning Code. Upon receipt of written petition and filing fee, the city administrator, or his designee, shall, within the time required by state law, schedule a hearing to consider the petition and shall notify the petitioner of such hearing.

Sec. 1402. – Notification Required.

(a) Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

(b) The petitioner shall notify all adjacent and abutting property owners by delivering a copy of the variance petition by hand delivery or by certified mail with return receipt requested. For the purposes of this section, adjacent shall also include parcels separated by a publicly dedicated right-of-way. Proof of such notice shall be provided to the city administrator or his designee prior to the hearing. Proof that certified mail was properly sent will be sufficient evidence of notification.

Sec. 1403. Variance review standards.

In rendering its decisions, the license and variance board shall consider the following factors:

- (1) Whether there are unique and special circumstances or extraordinary and exceptional conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.
- (2) Whether any alleged hardship is self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions from which relief is sought.
- (3) Whether strict application of the relevant provisions of the Zoning Code would deprive the applicant of reasonable use of the property for which the variance is sought.
- (4) Whether the variance proposed is the minimum variance, which makes possible the reasonable use of the property.

Sec. 1404. Conditions and limitations.

In authorizing any variance the license and variance board and the mayor and council shall include as a part of such variance, any condition, requirements or limitations which the board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the spirit and purpose of the Zoning Code.

Sec. 1405. Time limit.

Any variance granted shall expire whenever the nonconformity for which it has been granted is discontinued or abandoned. If a variance is not acted upon within 12 months of its approval, it shall expire.

Amend Multiple Sections under Appendix A – Zoning Ordinance of the City Code of Ordinances as follows: Section 1504 to clarify the public hearing requirements, Section 1505 to clarify posting requirements, 1508 to clarify zoning review standards, 1509 to clarify zoning procedures.

Sec. 1504. Public hearing.

Before enacting an amendment to this ordinance, the mayor and council shall hold a public hearing or hearings in the manner specified by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Within a reasonable time from the date of the last hearing on a petition to amend this ordinance, the city council shall render an official decision on the petition.

Sec. 1505. Signs posted.

Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then:

- (1) The notice, in addition to the requirements of section 1504 of this code section, shall include the location of the property, the present zoning classification of the property and the proposed zoning classification of the property;
- (2) The required signs shall be placed by the Community Development Department, in a place conspicuous to the nearest public roadway on said property; shall not be less than six square feet in area, and shall contain the information required herein.

Sec. 1508. Zoning review standards.

In the consideration of any zoning proposals, the planning commission and mayor and council in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property shall consider the following factors in their determination:

- (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (2) Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property;
- (3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- (4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
- (5) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
- (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
- (7) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area;
- (8) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
- (9) Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

- (10) Any other factor that the planning commission and mayor and council finds relevant in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property.

Sec. 1509. Zoning procedures.

- (a) There shall be maintained in the office of the city clerk, with a copy on file in the office of the Community Development Director a copy of the zoning map, as adopted and amended from time to time, along with a printed copy of the procedures for zoning or rezoning property in the City of Smyrna.
- (b) The zoning procedures shall state the method of filing application for zoning or rezoning, required notices and advertising, and set forth the general procedure and requirements as stated in the zoning ordinance of the City of Smyrna.
- (c) At the hearing before the planning commission and at the hearing before mayor and council:
 - (1) The applicant shall present the proposed zoning, together with all facts necessary to make a determination on those facts.
 - (2) The opposition, if any, may make a presentation or introduce evidence to support its or their position.
 - (3) In the event more than one person or group wishes to present evidence, the chairman of the meeting may require one or more persons to act as a spokesman to avoid repetitious testimony.
 - (4) The chairman of the meeting may limit, within a reasonable time as the circumstance shall dictate, the time allowed for any presentation or rebuttal provided that the proponents and opponents to the proposed zoning decision shall be given at least 10 minutes per side. The proponents and opponents to the proposed zoning decision shall be given equal time.
 - (5) In the event there is insufficient evidence to make a determination, the hearing may be continued for a reasonable time, from time to time, in the sole discretion of the hearing body.

Add Section 1509.1 dealing with Zoning Appeals and Appeals from the License and Variance Board

Sec. 1509.1 Zoning Appeals and appeals from the License and Variance Board

- a. Zoning Appeals and appeals from the License and Variance Board shall be taken in the manner specified in O.O.G.A. § 36-66-5.1 and other applicable state laws.
- b. The City Clerk, acting as the clerk for the License and Variance Board, shall have the authority to approve or issue any form of certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies as contemplated by O.O.G.A. § 36-66-5.1.

c. Service of such petition may be effectuated or accepted on behalf of the city by service upon the City Clerk as contemplated by O.O.G.A. § 36-66-5.1.

d. The City Clerk is designated as the representative authorized to accept service of an appeal of a decision of the license and variance board as contemplated by O.O.G.A. § 36-66-5.1.

Amend Multiple Sections under Appendix A – Zoning Ordinance of the City Code of Ordinances as follows: Section 1510 to change the notification requirements for Special Land Use permits.

Sec. 1510. – Special land use permits (nonresidential only)

- (1) Any use of property not specifically permitted allowed under an existing zoning category, a commercial use in excess of 40,000 square feet of gross area (including outdoor retail display areas and storage areas or any use which also requires a permit from the state environmental protection division of the department of natural resources under the provisions of chapters 5, 8, or 9 of title 12 of the Official Code of Georgia Annotated), may be temporarily allowed through a "special land use permit," issued by the mayor and council of the City of Smyrna.
- (2) Uses permitted under any zoning district shall not be permitted in a different zoning district through a special land use permit.
- (3) All applications for special land use permits shall be advertised and posted in the same manner as applications for rezoning. A public hearing will also be held in the same manner as applications for rezoning including the same application fee structure and notification of adjacent land owners.
- (4) The governing body of the City of Smyrna may grant a special land use permit for a period of time not to exceed 24 months except after reapplication, re-advertisement and public hearing. This time limit shall not apply to approval granted to commercial developments in excess of 40,000 square feet of gross area (including outside retail display areas and storage areas).
- (5) In order to approve the special land use permit the governing body of the City of Smyrna must determine that, in their sole discretion, the granting of the permit would meet the requirements contained in section 1510(5)(a) through (n) of the Zoning Code of the City of Smyrna as well as the following terms and conditions, which after grant shall become continuing conditions to the special land use permit, a violation of which may result in automatic revocation of such permit, to wit:
 - (a) The use shall not have a significant adverse affect on the area or neighborhood in which the proposed use will be located.
 - (b) The use shall not be significantly incompatible with zoning district or nearby districts.
 - (c) The use will not result in creation of a nuisance as defined under Georgia law.
 - (d) The use shall not adversely affect the quiet enjoyment of surrounding property.

- (e) The use shall not adversely affect the property values of surrounding property.
- (f) The use shall make adequate provisions for traffic, water and sewage, according to a traffic, water, sewage and other appropriate utilities study prepared by a registered engineer, and approved by the mayor and council of the City of Smyrna, in its sole discretion.
- (g) The site or intensity of the use is appropriate.
- (h) Provisions are made, in writing, regarding appropriate hours of operation.
- (i) Adequate limits or controls are placed on deliveries, receiving, and shipping.
- (j) Fencing and landscape plans are incorporated in the plans and proposals to ensure appropriate transitions between the subject property and surrounding properties.
- (k) The public health, safety and welfare of the surrounding neighborhood will not be adversely affected.
- (l) The site is accessible without travel over residential streets as defined by the city.
- (m) The applicant has supplied sufficient evidence of bonding capacity, references, and financial strength, as required by the City of Smyrna, for the project under consideration.
- (n) Annual host fees shall be required for transfer centers, composting centers and landfills, as established from time to time, and on record with the city clerk's office, to the City of Smyrna.
- (o) All special land uses shall be located:
 - 1. 3,000 feet of any parcel of land which is either named or used for residential uses or purposes;
 - 2. 3,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located;
 - 3. 5,280 feet (one mile) of any parcel of land with the same or similar use.
 - 4. On not less than three (3) acres of land containing at least 100 feet of road frontage.
 - a. For the purposes of this section distance shall be by airline measurement from property line, using the closest property lines of the parcels of land involved.
- (6) All special land use permits issued by the governing body of the City of Smyrna shall be subject to revocation [for], but not limited to[,] the following reasons:
 - (a) For violation of any ordinance, expressly including zoning ordinances and parking regulations, when it appears that such ordinance was adopted for the purpose of regulating said business or land use.
 - (b) For a failure to pay when due any obligation due the city, whether in connection with the operation of said land use or not.
 - (c) When the land use becomes a nuisance, as described by ordinances of the City of Smyrna or Georgia law.

- (d) When the land use is operated in violation of any law of the United States, State of Georgia or ordinance of the City of Smyrna.
 - (e) Where the health, morals, interest and convenience of the public demand the revocation of such special land use permit.
 - (f) Change in any (1) continuing condition of the use allowed hereunder or (2) the conditions herein contained or (3) as described in section 1510(5)(a) through (n), of the Zoning Code of the City of Smyrna.
- (7) Application requirements for special land use permits (nonresidential use only). All applications for special land use permits shall be submitted in writing to the community development department with a copy provided to the city clerk's office and shall contain:
- (a) A copy of the current deed.
 - (b) A current legal description.
 - (c) Three copies of the plot plan and one boundary survey, providing they are not larger than 11 inches by 17 inches, provide five copies if larger, drawn to scale by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws (plans must be stamped). The plot plan must show dimensions, adjoining streets with right-of-way (present and proposed), paving widths, the exact size and location of all buildings along with intended use, buffer areas, parking spaces, lakes, streams, utility easements, limits of 100-year floodplain, adjoining property owners, zoning of adjoining property, street address, and distance to nearest street intersection.
 - (d) Signature of titleholder and applicant affirming under oath that the information contained in said application is true and correct.
 - (e) Applicant or agent for applicant must attend public hearing or the application will not be considered.
 - (f) If a septic tank is required, approval must be made by Cobb County Environmental Health prior to filing of application.
 - (g) A filing fee, as determined by the governing body, must accompany each request. A schedule of filing fees approved by the governing body shall be maintained by the city administrator or his or her designee.
 - (h) A copy of the paid tax receipt for subject property.
 - (i) Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein. It shall be the applicant's responsibility to insure signs remain posted throughout advertisement period.

- (j) Revisions to application must be received no later than seven days prior to public hearing. Revisions made after this date shall not be considered.

Note: No application will be accepted by the community development department unless filled out in its entirety and all information provided.

(8) Disclosure report by applicant.

- (a) All applications shall contain proof of compliance with O.C.G.A. § 67-67A-1 et seq.
- (b) All applications shall contain a verification, under oath, by the owner, applicant, and any agent submitting the same that the information contained therein is true and correct.

**Application [applicant]* means any individual or business entity (corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust) applying for rezoning action.

***Copy to be filed with the City of Smyrna Community Development Department and city clerk along with a copy of the special land use application including a copy of the legal description of the property. Applicant's Signature Attorney's Signature
If Applicable*

(Nonresidential use only) EXHIBIT "A"
COMMUNITY IMPACT STUDY

Any special land use development is required to submit an impact study prepared by a registered engineer. This study shall address the following:

(A) *Traffic.*

- (1) Existing traffic counts— Identify peak morning, afternoon and evening traffic.
- (2) Determine present level of capacity and location and amount of excess capacity of local roadway.
- (3) Project estimates of trips to be generated by proposed development for present and future traffic.
- (4) Study impacts upon road system abutting property and recommend improvements to physical layout of roadway for safe and efficient traffic operation.

(B) *Water.*

- (1) Projected project usage calculations (including future development if project is phased).
- (2) Static and residual flow pressure tests on fire hydrant (within 1,000 feet of the project site).
- (3) Locations of nearest fire hydrant and line size along street frontage each direction from site.
- (4) Location, distance to, and size of nearest major trunk distribution water line.

(C) *Sewer.*

- (1) Projected project flow calculations (including future development if project is phased).

- (2) Existing line size(s) at tie-in points with flow recording from downstream manhole (minimum 24 hours; weekday).
- (3) Where projects are located in basins with a pump station, provide current average daily flow and pump station capacity.

CONSENT OF CONTIGUOUS LAND OWNERS

TO ACCOMPANY APPLICATION
FOR SPECIAL LAND USE PERMIT

It is hereby acknowledged that _____ has notified the undersigned that he or she intends to make an application to the appropriate City of Smyrna authorities for a special land use permit for the purpose of _____ on the premises described in the application.

Amend Sections 1.06, 1.07, 1.08, and 1.09 under Appendix E– Urban Design District of the City Code of Ordinances to change the notification requirements for Urban Design Commission applications.

Sec. 1.0. – Procedures

(a) 1.01 Background.

New construction will be the predominate type of development activity in northern Smyrna. Much of the city's original downtown was demolished in the 1960s and 1970s, to the extent that Smyrna ceased to have a true downtown. The city has begun a process to create a new downtown that embodies both the efficiency of contemporary architecture with the amenities and people scale of traditional town planning. The intent of these standards is to guide new construction as well as the renovation of existing buildings toward a future urban environment where the buildings and infrastructure are both compatible with each other and the lifestyles of Smyrna's citizens.

Few older buildings (50+ years) remain in the central Smyrna area. For this reason, it is important to preserve those remaining historical buildings that reflect the history, character and architecture of Smyrna's past. The overriding recommendations of Article III are to restore and maintain the older buildings as close as possible to their original appearance.

(b) 1.02 Urban Design Commission.

The regulatory body designated to review applications for zoning, land disturbance, building and sign permits in the Downtown Design District shall be known as the Smyrna Urban Design Commission (UDC). The UDC shall also be responsible for reviewing any public or private plans affecting downtown Smyrna, as directed by the Mayor and City Council. It shall be composed of all members of the Downtown Development Authority, plus two members appointed by the Authority, who have expertise in architectural fields. The UDC shall meet in public at least once a month and be authorized to adopt a Rules of Order for the operation of its meetings. An employee of the City of Smyrna shall attend all UDC meetings, take minutes at all meetings and maintain a public record of all minutes and actions.

(c) *1.03 Applicability.*

In order to assure the orderly growth and compatible development of central Smyrna, the Mayor and City Council have adopted these Urban Design Standards as a mandatory land use control for all properties and structures within its defined jurisdiction (See Boundary Map). These standards supplement and are adjunct to Smyrna's Comprehensive Plan, Zoning Ordinance, Sign Ordinance, Subdivision Ordinance and the Standard Building Code. When conflicts occur between requirements of these various regulatory documents, the most strenuous standard applies, as interpreted by a City of Smyrna Building Inspection Official.

Existing buildings which are less than 50 years old and which possess no distinguishing architectural merit may be maintained, demolished or renovated. If a building of this type is renovated or replaced with a new building, the new structure or renovation shall comply with Article II. If a building 50 years old or older is renovated, it shall follow the design criteria in Article III and shall be considered a preservation project. Renovations, which include painting and new construction in the Downtown Design District, must be submitted to the UDC.

(d) *1.04 Thresholds for Review by Urban Design Commission.*

(1) 1.04.1 New Construction.

Design review is required for all new construction within the Downtown Design District. Plan submittal is required for buildings built on vacant lots or for the replacement of demolished buildings.

(2) 1.04.2 Building Renovation.

If your project is routine maintenance as hereunder described, it does not require design review:

Routine Maintenance—Includes cleaning building exterior and property; replacing deteriorated materials that compose less than 24 percent of the building's exterior; painting, provided the paint colors have been previously approved by the Urban Design Commission.

If your project is one of the following categories as hereunder described, it requires design review by the Urban Design Commission:

Major Renovation—Includes building addition, canopy or replacement of 25 percent or more of a building. Painting will require review if the color has not been previously approved by the Urban Design Commission.

Landscaping—A landscaping plan is required to screen parking facilities and meet tree ordinance

Parking—A plan for meeting the parking requirements associated with new building construction is subject to design review.

Demolition—Design review required if building is 50 years or older. Request for demolition permit must be submitted to the Urban Design Commission accompanied by a plan for a replacement building.

(e) 1.05 Application Procedure.

An Application for a Certificate of Approval must be submitted to the UDC in order for it to take formal action on a proposed project. However, it is recommended that the applicant first submit conceptual design drawings of the proposed project to the Smyrna Community Development Department for informal review, prior to being submitted to the UDC. This will help prevent expenditures of financial resources for changes to construction documents. Conceptual drawings may take the form of dimensioned sketches or may be more refined. However, the graphics should provide sufficient information so the City Staff may determine if there are obvious conflicts with applicable codes and regulations.

In addition to an application for a Certificate of Approval, standard applications (as applicable) for zoning changes, ground disturbance permits, sign permits and building permits must be submitted for proposed projects in the Downtown Design District. All applications for zoning changes, demolition permits, sign permits, ground disturbance permits and building permits within the boundaries of the Downtown Design District shall clearly state so. Applications shall be submitted to the Smyrna Community Development Department within 45-days prior to a scheduled meeting of the UDC. The Applicant will be invited to present the project at the public meeting and will be allowed to amend the application at that meeting in response to concerns addressed by the UDC. All amendments and stipulations to an approved application shall be attached in writing to the application and signed by the applicant and the Chairman of the UDC.

Applications denied by the UDC may be redrawn and re-submitted to the UDC for another public review. Final approval of a proposed project will be verified by the issuance of a Certificate of Approval and a City of Smyrna Building/Zoning/Sign/Ground Disturbance Permit. Any significant deviation which is not in compliance with the city's codes and ordinances shall be sufficient grounds for the Community Development Department to issue a Stop Work Order on the project and possibly make the property owner, general contractor and/or developer subject to civil penalties or judicial action.

(f) 1.06. Notification required.

Notice for any hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

(g) 1.07 Variance Procedure.

The Urban Design Commission may grant design exceptions if a proposed project is a unique and exceptional design concept that architecturally enhances the downtown area.

(h) 1.08 Appeals Procedure.

If the UDC denies an application, the applicant may file an appeal to the Mayor and City Council. The City Council shall schedule a Public Hearing on the matter. Appeals from the decision of the Mayor and Counsel shall be made by a direct appeal made to the Cobb County Superior Court.

(i) *1.09 Definitions.*

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purposes of this ordinance, certain words and terms used herein shall be defined as follows:

Architraves—molding around a door or window

Cornice—a horizontal molded projection that crowns or completes a building or wall.

Fenestration—the arrangement of windows in a building

Landscape zones—shall be minimum 5 feet in width and located immediately adjacent to the curb and shall be continuous. This zone may be used for street trees, streetlights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping, or sod.

Lunette—A crescent-shaped or semicircular space, usually over a door or window that may contain another window, a sculpture, or a mural.

Parapet—a low protective wall or railing along the edge of a raised structure such as a roof or balcony.

Muntins/mullions—a strip of wood or metal separating and supporting and holding panes of glass in a window or panels set in series.

Sidewalk clear zones—shall be 10 feet in width and located immediately contiguous to the landscape zone and shall be continuous. Said zone shall be unobstructed for a minimum height of eight feet.

Transom window/panel—a small window or panel above a door that is usually hinged to a horizontal crosspiece over the door.

Amend Section 1702 under Appendix A – Zoning Code of the City Code of Ordinances to change the change the notification requirements for administrative appeals.

Sec. 1700. Intent.

It is the intention of this chapter that all questions arising in connection with the administration, interpretation, and enforcement of this Zoning Ordinance shall be presented first to the director of community development, and that such questions shall be presented to the license and variance board only on appeal from decision of an administrative official.

Sec. 1701. Who may appeal.

Any person who alleges there is an error in, or who is aggrieved by a decision of the community development director, building inspector, city engineer, or other administrative official in the administration, interpretation, or enforcement of this Zoning Ordinance, may file an appeal with the license and variance board, stating the grounds for such appeal. Appeals of administrative decisions may also be filed for consideration by the license and variance board by any officer, department, or board or commission of the City of Smyrna, affected by any such administrative decision. Said appeal application shall be filed within 30 days of the date of decision of the administrative official.

Sec. 1702. Procedures.

Any appeal received and all papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted by the community development director to license and variance board. Such appeal shall follow the procedures and notification requirements established under Section 1400 -1405 of the Zoning Ordinance.

Sec. 1703. Stay of proceedings.

The filing of an appeal stays all legal proceedings in furtherance of the action appealed from, unless the community development director certifies to the license and variance board after the notice of appeal shall have been filed with him or her, that by any reason of acts stated in the certificate a stay would, in his or her opinion, cause eminent peril to life and property. In such case, proceedings shall not be stayed.

This ordinance shall take effect on July 1, 2023 and is passed and duly adopted this 5th day of June 2023.

The Honorable Derek Norton
Mayor, City of Smyrna, Georgia

ATTEST:

Heather Peacon-Corn
City Clerk, City of Smyrna, Georgia

Approved as to form:

Scott A. Cochran, City Attorney

CITY SEAL:



ORDINANCE 2023-006

AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA AS IT RELATES TO NOTIFICATION, APPEALS, AND OTHER REQUIREMENTS.

Amend Section 2-141 under Chapter 2 – Administration of the City Code of Ordinances to change the notification requirements for License and Variance Board appeals.

Sec. 2-141. - License and variance board.

- (a) There is hereby established a license and variance board which shall be a Quasi-Judicial board as contemplated by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia.
- (b) The license and variance board established by this section shall have the following duties:
 - (1) Act as a hearing officer for applications for licenses to sell alcoholic beverages as specified in subsection 6-114(b).
 - (2) Hear applications for pawn brokers as specified in subsection 22-109(b).
 - (3) Hear applications for any other license or certificate to be issued by the city for which a public hearing is required, including but not limited to the following: precious metals dealers, massage practitioners, and bail bondsmen.
 - (4) Conduct hearings regarding the possible suspension, revocation or other action taken against a license or certificate issued by the city and to impose any sanctions as provided by law.
 - (5) Hear variance requests according to Article XIV of the zoning ordinance.
 - (6) Hear requests for variances from stream buffers established by city ordinance.
 - (7) Approve or disapprove applications in a manner consistent with applicable laws.
- (c) Applicants or licensees shall be given notice of the date, time and place when the license and variance board will consider the respective matter. All meetings of the board shall be open to the public.
- ~~(d) The decision of the license and variance board shall be final unless appealed to the mayor and city council within ten days of the date of decision by the license and variance board. Such appeal must be in writing and filed with the city clerk. In the event of an appeal, the mayor and city council, within 30 days of the date the appeal is filed, shall place the matter down for a de novo hearing and take any authorized action concerning the applicant's appeal. Appellants shall be given notice of the date, time and place when the mayor and council will consider the appeal.~~
- (d) (e) The decision of the License and Variance Board may be appealed ~~mayor and city council on an appeal under this article shall be final unless appeal is made to the Superior Court of the Cobb County pursuant to Section 1509.1. The applicant may appeal a decision of the mayor and city council by filing a petition for writ of certiorari to the superior court in the manner provided by state law.~~

~~(e)(f)~~ The license and variance board shall have no jurisdiction or authority to hear any appeal from or to reverse, modify or set aside any decision of the mayor and city council.

~~(f)~~ (g) The license and variance board shall be composed of three regular members and two alternate members, all of whom shall be appointed by the mayor and city council and who shall serve one-year terms and/or until a successor is appointed, except that such service shall be at the pleasure and discretion of the mayor and council. The alternate member shall only participate in hearings in which a regular member of the board is unable to attend. A quorum shall consist of three regular or alternate members. The City Clerk shall serve as the clerk of the License and variance Board.

~~(g)(h)~~ The license and variance board shall meet at such times as is necessary, to be determined by such board, and shall render decisions within a reasonable time. Reasonable time for the purposes of this section shall be no longer than 120 days from the date an application is filed.

~~(h)~~ (i) The license and variance board shall select one of its members to serve as chair and one of its members to serve as secretary, to serve at the pleasure of the license and variance board. Minutes and records of all proceedings shall be kept by the secretary or his/her designee and maintained in the office of the city clerk.

Amend Section 1401 and 1402 under Appendix A – Zoning Ordinance of the City Code of Ordinances to change the notification requirements for Variance petitions.

Sec. 1400. Variances.

All requests for a variance from the terms of the Zoning Code ~~relating to setbacks, distance requirements between buildings or other substantially similar dimensional regulations, parking, or accessory structures,~~ except when requested as part of a rezoning, or a variance that is defined as a request for a “Zoning Decision”, as defined by O.C.G.A. § 36-66-3, as may be amended, shall be heard by the license and variance board as established by city ordinance.

Sec. 1401. – Variance Petitions.

(a) *Filing of petition.* Variance petitions to the license and variance board may be filed by any person aggrieved by the literal enforcement of the requirements of the Zoning Code. Upon receipt of written petition and filing fee, the city administrator, or his designee, shall, within ~~30~~ the time required by state law schedule a hearing to consider the petition and shall notify the petitioner of such hearing.

Sec. 1402. – Notification Required.

(a) Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

~~The building inspector shall cause to have posted, in a place conspicuous to the nearest public roadway on said property, one or more signs, each of which shall not be less than six square feet in area, and each of which shall indicate that a variance petition has been filed and shall contain the date and time and place of the public hearing. No such public hearing shall take place until said signs have been posted for at least 15 days.~~

- (b) The petitioner shall notify all adjacent and abutting property owners by delivering a copy of the variance petition by hand delivery or by certified mail with return receipt requested. For the purposes of this section, adjacent shall also include parcels separated by a publicly dedicated right-of-way. Proof of such notice shall be provided to the city administrator or his designee prior to the hearing. Proof that certified mail was properly sent will be sufficient evidence of notification.

Sec. 1403. Variance review standards.

In rendering its decisions, the license and variance board shall consider the following factors:

- (1) Whether there are unique and special circumstances or extraordinary and exceptional conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.
- (2) Whether any alleged hardship is self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions from which relief is sought.
- (3) Whether strict application of the relevant provisions of the Zoning Code would deprive the applicant of reasonable use of the property for which the variance is sought.
- (4) Whether the variance proposed is the minimum variance, which makes possible the reasonable use of the property.

Sec. 1404. Conditions and limitations.

In authorizing any variance the license and variance board and the mayor and council shall include as a part of such variance, any condition, requirements or limitations which the board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the spirit and purpose of the Zoning Code.

Sec. 1405. Time limit.

Any variance granted shall expire whenever the nonconformity for which it has been granted is discontinued or abandoned. If a variance is not acted upon within 12 months of its approval, it shall expire.

Amend Multiple Sections under Appendix A – Zoning Ordinance of the City Code of Ordinances as follows: Section 1504 to clarify the public hearing requirements, Section 1505 to clarify posting requirements, 1508 to clarify zoning review standards, 1509 to clarify zoning procedures.

Sec. 1504. Public hearing.

Before enacting an amendment to this ordinance, the mayor and council shall hold a public hearing or hearings in the manner specified by the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. ~~At least 15 but not more than 45 days prior to the date of hearing, a notice of the date, time and place of the hearing, as well as the nature of the proposed amendment, shall be published in a newspaper having general circulation within the City of Smyrna~~ Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Within a reasonable time from the date of the last hearing on a petition to amend this ordinance, the city council shall render an official decision on the petition.

Sec. 1505. Signs posted.

Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, ~~a proposed amendment to this ordinance involves changing the zoning classification of property from one type of zone to the other, and the rezoning is initiated by a party other than the local government then:~~

- (1) The notice, in addition to the requirements of section 1504 of this code section, shall include the location of the property, the present zoning classification of the property and the proposed zoning classification of the property;
- (2) The required signs shall be placed by the Community Development Department building inspector shall cause to have posted, in a place conspicuous to the nearest public roadway on said property, one or more signs, e ~~Each sign of which shall not be less than six square feet in area, and each of which shall contain the information required herein as to the proposed change and the date and time and place of the public hearing before the city council. No such public hearing shall take place until said signs have been posted for at least 15 days; and~~

- (3) ~~The applicant shall furnish such other information as is required to facilitate the consideration of the applicable provisions of section 1508 of this article.~~

Sec. 1508. Zoning review standards.

In the consideration of any zoning proposals, the planning commission and mayor and council in shall balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property shall consider the following factors in their determination:

- (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (2) Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property;
- (3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- (4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
- (5) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
- (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
- (7) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area;
- (8) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area; and
- (9) Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.
- (10) Any other factor that the planning commission and mayor and council finds relevant in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of the property.

Sec. 1509. Zoning procedures.

- (a) There shall be maintained in the office of the city clerk, with a copy on file in the office of the Community Development Director ~~building inspector~~, a copy of the zoning map, as adopted and amended from time to time, along with a printed copy of the procedures for zoning or rezoning property in the City of Smyrna.
- (b) The zoning procedures shall state the method of filing application for zoning or rezoning, required notices and advertising, and set forth the general procedure and requirements as stated in the zoning ordinance of the City of Smyrna.
- (c) At the hearing before the planning commission and at the hearing before mayor and council:
 - (1) The applicant shall present the proposed zoning, together with all facts necessary to make a determination on those facts.
 - (2) The opposition, if any, may make a presentation or introduce evidence to support its or their position.
 - (3) In the event more than one person or group wishes to present evidence, the chairman of the meeting may require one or more persons to act as a spokesman to avoid repetitious testimony.
 - (4) The chairman of the meeting may limit, within a reasonable time as the circumstance shall dictate, the time allowed for any presentation or rebuttal provided that the proponents and opponents to the proposed zoning decision shall be given at least 10 minutes per side. The proponents and opponents to the proposed zoning decision shall be given equal time.
 - (5) In the event there is insufficient evidence to make a determination, the hearing may be continued for a reasonable time, from time to time, in the sole discretion of the hearing body.
 - ~~(6) The failure of the applicant to provide sufficient evidence or information, at the earliest opportunity, to make a determination shall be grounds for denial of the application.~~
 - ~~(7) All applications shall be accompanied by the appropriate affidavits and information as required by O.C.G.A. ch. 36-67A of the laws of the State of Georgia and the fees required hereunder.~~

Add Section 1509.1 dealing with Zoning Appeals and Appeals from the License and Variance Board**Sec. 1509.1 Zoning Appeals and appeals from the License and Variance Board**

- a. Zoning Appeals and appeals from the License and Variance Board shall be taken in the manner specified in O.O.G.A. § 36-66-5.1 and other applicable state laws.
- b. The City Clerk, acting as the clerk for the License and Variance Board, shall have the authority to approve or issue any form of certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies as contemplated by O.O.G.A. § 36-66-5.1.

c. Service of such petition may be effectuated or accepted on behalf of the city by service upon the City Clerk as contemplated by O.O.G.A. § 36-66-5.1.

d. The City Clerk is designated as the representative authorized to accept service of an appeal of a decision of the license and variance board as contemplated by O.O.G.A. § 36-66-5.1.

Amend Multiple Sections under Appendix A – Zoning Ordinance of the City Code of Ordinances as follows: Section 1510 to change the notification requirements for Special Land Use permits.

Sec. 1510. – Special land use permits (nonresidential only)

- (1) Any use of property not specifically permitted allowed under an existing zoning category, a commercial use in excess of 40,000 square feet of gross area (including outdoor retail display areas and storage areas or any use which also requires a permit from the state environmental protection division of the department of natural resources under the provisions of chapters 5, 8, or 9 of title 12 of the Official Code of Georgia Annotated), may be temporarily allowed through a "special land use permit," issued by the mayor and council of the City of Smyrna.
- (2) Uses permitted under any zoning district shall not be permitted in a different zoning district through a special land use permit.
- (3) All applications for special land use permits shall be advertised and posted in the same manner as applications for rezoning. A public hearing will also be held in the same manner as applications for rezoning including the same application fee structure and notification of adjacent land owners.
- (4) The governing body of the City of Smyrna may grant a special land use permit for a period of time not to exceed 24 months except after reapplication, re-advertisement and public hearing. This time limit shall not apply to approval granted to commercial developments in excess of 40,000 square feet of gross area (including outside retail display areas and storage areas).
- (5) In order to approve the special land use permit the governing body of the City of Smyrna must determine that, in their sole discretion, the granting of the permit would meet the requirements contained in section 1510(5)(a) through (n) of the Zoning Code of the City of Smyrna as well as the following terms and conditions, which after grant shall become continuing conditions to the special land use permit, a violation of which may result in automatic revocation of such permit, to wit:
 - (a) The use shall not have a significant adverse affect on the area or neighborhood in which the proposed use will be located.
 - (b) The use shall not be significantly incompatible with zoning district or nearby districts.
 - (c) The use will not result in creation of a nuisance as defined under Georgia law.
 - (d) The use shall not adversely affect the quiet enjoyment of surrounding property.

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- (e) The use shall not adversely affect the property values of surrounding property.
 - (f) The use shall make adequate provisions for traffic, water and sewage, according to a traffic, water, sewage and other appropriate utilities study prepared by a registered engineer, and approved by the mayor and council of the City of Smyrna, in its sole discretion.
 - (g) The site or intensity of the use is appropriate.
 - (h) Provisions are made, in writing, regarding appropriate hours of operation.
 - (i) Adequate limits or controls are placed on deliveries, receiving, and shipping.
 - (j) Fencing and landscape plans are incorporated in the plans and proposals to ensure appropriate transitions between the subject property and surrounding properties.
 - (k) The public health, safety and welfare of the surrounding neighborhood will not be adversely affected.
 - (l) The site is accessible without travel over residential streets as defined by the city.
 - (m) The applicant has supplied sufficient evidence of bonding capacity, references, and financial strength, as required by the City of Smyrna, for the project under consideration.
 - (n) Annual host fees shall be required for transfer centers, composting centers and landfills, as established from time to time, and on record with the city clerk's office, to the City of Smyrna.
 - (o) All special land uses shall be located:
 - 1. 3,000 feet of any parcel of land which is either named or used for residential uses or purposes;
 - 2. 3,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located;
 - 3. 5,280 feet (one mile) of any parcel of land with the same or similar use.
 - 4. On not less than three (3) acres of land containing at least 100 feet of road frontage.
 - a. For the purposes of this section distance shall be by airline measurement from property line, using the closest property lines of the parcels of land involved.
- (6) All special land use permits issued by the governing body of the City of Smyrna shall be subject to revocation [for], but not limited to[,], the following reasons:
- (a) For violation of any ordinance, expressly including zoning ordinances and parking regulations, when it appears that such ordinance was adopted for the purpose of regulating said business or land use.
 - (b) For a failure to pay when due any obligation due the city, whether in connection with the operation of said land use or not.

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- (c) When the land use becomes a nuisance, as described by ordinances of the City of Smyrna or Georgia law.
 - (d) When the land use is operated in violation of any law of the United States, State of Georgia or ordinance of the City of Smyrna.
 - (e) Where the health, morals, interest and convenience of the public demand the revocation of such special land use permit.
 - (f) Change in any (1) continuing condition of the use allowed hereunder or (2) the conditions herein contained or (3) as described in section 1510(5)(a) through (n), of the Zoning Code of the City of Smyrna.
- (7) Application requirements for special land use permits (nonresidential use only). All applications for special land use permits shall be submitted in writing to the community development department with a copy provided to the city clerk's office and shall contain:
- (a) A copy of the current deed.
 - (b) A current legal description.
 - (c) Three copies of the plot plan and one boundary survey, providing they are not larger than 11 inches by 17 inches, provide five copies if larger, drawn to scale by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws (plans must be stamped). The plot plan must show dimensions, adjoining streets with right-of-way (present and proposed), paving widths, the exact size and location of all buildings along with intended use, buffer areas, parking spaces, lakes, streams, utility easements, limits of 100-year floodplain, adjoining property owners, zoning of adjoining property, street address, and distance to nearest street intersection.
 - (d) Signature of titleholder and applicant affirming under oath that the information contained in said application is true and correct.
 - (e) Applicant or agent for applicant must attend public hearing or the application will not be considered.
 - (f) If a septic tank is required, approval must be made by Cobb County Environmental Health prior to filing of application.
 - (g) A filing fee, as determined by the governing body, must accompany each request. A schedule of filing fees approved by the governing body shall be maintained by the city administrator or his or her designee.
 - ~~(h) Application fee for special land use is \$250.00.~~
 - (h)(i) A copy of the paid tax receipt for subject property.
 - ~~(i)(j) Signs posted by the City of Smyrna at least ten 30 days prior to public hearings. It shall be the applicant's responsibility to insure signs remain posted throughout advertisement period.~~

Notice for such hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title

36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein. It shall be the applicant's responsibility to insure signs remain posted throughout advertisement period.

- (k) Revisions to application must be received no later than seven days prior to public hearing. Revisions made after this date shall not be considered.

Note: No application will be accepted by the community development department unless filled out in its entirety and all information provided.

(8) Disclosure report by applicant.

- (a) All applications shall contain proof of compliance with O.C.G.A. § 67-67A-1 et seq.
- (b) All applications shall contain a verification, under oath, by the owner, applicant, and any agent submitting the same that the information contained therein is true and correct.

**Application [applicant]* means any individual or business entity (corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust) applying for rezoning action.

****Copy to be filed with the City of Smyrna Community Development Department and city clerk along with a copy of the special land use application including a copy of the legal description of the property. Applicant's Signature Attorney's Signature**
If Applicable

(Nonresidential use only) EXHIBIT "A"
COMMUNITY IMPACT STUDY

Any special land use development is required to submit an impact study prepared by a registered engineer. This study shall address the following:

(A) *Traffic.*

- (1) Existing traffic counts— Identify peak morning, afternoon and evening traffic.
- (2) Determine present level of capacity and location and amount of excess capacity of local roadway.
- (3) Project estimates of trips to be generated by proposed development for present and future traffic.
- (4) Study impacts upon road system abutting property and recommend improvements to physical layout of roadway for safe and efficient traffic operation.

(B) *Water.*

- (1) Projected project usage calculations (including future development if project is phased).
- (2) Static and residual flow pressure tests on fire hydrant (within 1,000 feet of the project site).

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- (3) Locations of nearest fire hydrant and line size along street frontage each direction from site.
 - (4) Location, distance to, and size of nearest major trunk distribution water line.

(C) *Sewer.*

- (1) Projected project flow calculations (including future development if project is phased).
- (2) Existing line size(s) at tie-in points with flow recording from downstream manhole (minimum 24 hours; weekday).
- (3) Where projects are located in basins with a pump station, provide current average daily flow and pump station capacity.

CONSENT OF CONTIGUOUS LAND OWNERS

TO ACCOMPANY APPLICATION
FOR SPECIAL LAND USE PERMIT

It is hereby acknowledged that _____ has notified the undersigned that he or she intends to make an application to the appropriate City of Smyrna authorities for a special land use permit for the purpose of _____ on the premises described in the application.

Amend Sections 1.06, 1.07, 1.08, and 1.09 under Appendix E– Urban Design District of the City Code of Ordinances to change the notification requirements for Urban Design Commission applications.

Sec. 1.0. – Procedures

(a) *1.01 Background.*

New construction will be the predominate type of development activity in northern Smyrna. Much of the city's original downtown was demolished in the 1960s and 1970s, to the extent that Smyrna ceased to have a true downtown. The city has begun a process to create a new downtown that embodies both the efficiency of contemporary architecture with the amenities and people scale of traditional town planning. The intent of these standards is to guide new construction as well as the renovation of existing buildings toward a future urban environment where the buildings and infrastructure are both compatible with each other and the lifestyles of Smyrna's citizens.

Few older buildings (50+ years) remain in the central Smyrna area. For this reason, it is important to preserve those remaining historical buildings that reflect the history, character and architecture of Smyrna's past. The overriding recommendations of Article III are to restore and maintain the older buildings as close as possible to their original appearance.

(b) *1.02 Urban Design Commission.*

The regulatory body designated to review applications for zoning, land disturbance, building and sign permits in the Downtown Design District shall be known as the Smyrna Urban Design Commission (UDC). The UDC shall also be responsible for reviewing any public or private plans affecting downtown Smyrna, as directed by the Mayor and City Council. It shall be composed of all members of the Downtown Development Authority, plus two members appointed by the Authority, who have expertise in architectural fields.

The UDC shall meet in public at least once a month and be authorized to adopt a Rules of Order for the operation of its meetings. An employee of the City of Smyrna shall attend all UDC meetings, take minutes at all meetings and maintain a public record of all minutes and actions.

(c) *1.03 Applicability.*

In order to assure the orderly growth and compatible development of central Smyrna, the Mayor and City Council have adopted these Urban Design Standards as a mandatory land use control for all properties and structures within its defined jurisdiction (See Boundary Map). These standards supplement and are adjunct to Smyrna's Comprehensive Plan, Zoning Ordinance, Sign Ordinance, Subdivision Ordinance and the Standard Building Code. When conflicts occur between requirements of these various regulatory documents, the most strenuous standard applies, as interpreted by a City of Smyrna Building Inspection Official.

Existing buildings which are less than 50 years old and which possess no distinguishing architectural merit may be maintained, demolished or renovated. If a building of this type is renovated or replaced with a new building, the new structure or renovation shall comply with Article II. If a building 50 years old or older is renovated, it shall follow the design criteria in Article III and shall be considered a preservation project. Renovations, which include painting and new construction in the Downtown Design District, must be submitted to the UDC.

(d) *1.04 Thresholds for Review by Urban Design Commission.*

(1) 1.04.1 New Construction.

Design review is required for all new construction within the Downtown Design District. Plan submittal is required for buildings built on vacant lots or for the replacement of demolished buildings.

(2) 1.04.2 Building Renovation.

If your project is routine maintenance as hereunder described, it does not require design review:

Routine Maintenance—Includes cleaning building exterior and property; replacing deteriorated materials that compose less than 24 percent of the building's exterior; painting, provided the paint colors have been previously approved by the Urban Design Commission.

If your project is one of the following categories as hereunder described, it requires design review by the Urban Design Commission:

Major Renovation—Includes building addition, canopy or replacement of 25 percent or more of a building. Painting will require review if the color has not been previously approved by the Urban Design Commission.

Landscaping—A landscaping plan is required to screen parking facilities and meet tree ordinance

Parking—A plan for meeting the parking requirements associated with new building construction is subject to design review.

Demolition—Design review required if building is 50 years or older. Request for demolition permit must be submitted to the Urban Design Commission accompanied by a plan for a replacement building.

(e) *1.05 Application Procedure.*

An Application for a Certificate of Approval must be submitted to the UDC in order for it to take formal action on a proposed project. However, it is recommended that the applicant first submit conceptual design drawings of the proposed project to the Smyrna Community Development Department for informal review, prior to being submitted to the UDC. This will help prevent expenditures of financial resources for changes to construction documents. Conceptual drawings may take the form of dimensioned sketches or may be more refined. However, the graphics should provide sufficient information so the City Staff may determine if there are obvious conflicts with applicable codes and regulations.

In addition to an application for a Certificate of Approval, standard applications (as applicable) for zoning changes, ground disturbance permits, sign permits and building permits must be submitted for proposed projects in the Downtown Design District. All applications for zoning changes, demolition permits, sign permits, ground disturbance permits and building permits within the boundaries of the Downtown Design District shall clearly state so. Applications shall be submitted to the Smyrna Community Development Department within 15 days prior to a scheduled meeting of the UDC. The Applicant will be invited to present the project at the public meeting and will be allowed to amend the application at that meeting in response to concerns addressed by the UDC. All amendments and stipulations to an approved application shall be attached in writing to the application and signed by the applicant and the Chairman of the UDC.

Applications denied by the UDC may be redrawn and re-submitted to the UDC for another public review. Final approval of a proposed project will be verified by the issuance of a Certificate of Approval and a City of Smyrna Building/Zoning/Sign/Ground Disturbance Permit. Any significant deviation which is not in compliance with the city's codes and ordinances shall be sufficient grounds for the Community Development Department to issue a Stop Work Order on the project and possibly make the property owner, general contractor and/or developer subject to civil penalties or judicial action.

(f) *1.06. Notification required.*

Notice for any hearing, including publication requirements and signage posting requirements shall be in accordance with the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia. Whenever the Zoning Procedures Law set forth in Title 36 of the Official Code of Georgia requires a sign to be posted, then the required signs shall be placed by the Community Development Department in a place conspicuous to the nearest public roadway on said property. Each sign shall not be less than six square feet in area and shall contain the information required herein.

~~(f)-(g)~~ *1.06 1.07 Variance Procedure.*

The Urban Design Commission may grant design exceptions if a proposed project is a unique and exceptional design concept that architecturally enhances the downtown area. ~~Once a design exception is granted by the Urban Design Commission the applicant must seek approval from the license and variance board through the provisions of Article XIV of the Zoning Ordinance.~~

~~(g)~~ (h) ~~1.07~~ 1.08 *Appeals Procedure.*

If the UDC denies an application, the applicant may follow normal appeals procedures. ~~The applicant may file an appeal to the Mayor and City Council. At its discretion, the City Council may accept this appeal and shall schedule a Public Hearing to hear public arguments on the matter. Appeals from the decision of the Mayor and Counsel shall be made by a direct appeal made to the Cobb County Superior Court. If the applicant is still not satisfied with the findings of the regulatory bodies within the City of Smyrna, he or she may seek judicial review within the State Court System~~

~~(h)~~ (i) ~~1.08~~ 1.09 *Definitions.*

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purposes of this ordinance, certain words and terms used herein shall be defined as follows:

Architraves—molding around a door or window

Cornice—a horizontal molded projection that crowns or completes a building or wall.

Fenestration—the arrangement of windows in a building

Landscape zones—shall be minimum 5 feet in width and located immediately adjacent to the curb and shall be continuous. This zone may be used for street trees, streetlights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping, or sod.

Lunette—A crescent-shaped or semicircular space, usually over a door or window that may contain another window, a sculpture, or a mural.

Parapet—a low protective wall or railing along the edge of a raised structure such as a roof or balcony.

Muntins/mullions—a strip of wood or metal separating and supporting and holding panes of glass in a window or panels set in series.

Sidewalk clear zones—shall be 10 feet in width and located immediately contiguous to the landscape zone and shall be continuous. Said zone shall be unobstructed for a minimum height of eight feet.

Transom window/panel—a small window or panel above a door that is usually hinged to a horizontal crosspiece over the door.

Amend Section 1702 under Appendix A – Zoning Code of the City Code of Ordinances to change the change the notification requirements for administrative appeals.

Sec. 1700. Intent.

It is the intention of this chapter that all questions arising in connection with the administration, interpretation, and enforcement of this Zoning Ordinance shall be presented first to the director of community development, and that such questions shall be presented to the license and variance board only on appeal from decision of an administrative official.

Sec. 1701. Who may appeal.

Any person who alleges there is an error in, or who is aggrieved by a decision of the community development director, building inspector, city engineer, or other administrative official in the administration, interpretation, or enforcement of this Zoning Ordinance, may file an appeal with the license and variance board, stating the grounds for such appeal. Appeals of administrative decisions may also be filed for consideration by the license and variance board by any officer, department, or board or commission of the City of Smyrna, affected by any such administrative decision. Said appeal application shall be filed within 30 days of the date of decision of the administrative official.

Sec. 1702. Procedures.

Any appeal received and all papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted by the community development director to license and variance board. Such appeal shall follow the procedures and notification requirements established under Section ~~1400~~ 1400 -1405 of the Zoning Ordinance.

Sec. 1703. Stay of proceedings.

The filing of an appeal stays all legal proceedings in furtherance of the action appealed from, unless the community development director certifies to the license and variance board after the notice of appeal shall have been filed with him or her, that by any reason of acts stated in the certificate a stay would, in his or her opinion, cause eminent peril to life and property. In such case, proceedings shall not be stayed.

This ordinance shall take effect on July 1, 2023 and is passed and duly adopted this 5th day of June 2023.

CITY SEAL:

The Honorable Derek Norton
Mayor, City of Smyrna, Georgia

ATTEST:

Heather Peacon-Corn
City Clerk, City of Smyrna, Georgia

Approved as to form:

Scott A. Cochran, City Attorney