

**ARTICLE 34  
REZONING AND CONDITIONAL USE APPLICATIONS**

- Sec. 34.1. Authority to Amend.
- Sec. 34.2. Initiation of Proposals for Rezoning.
- Sec. 34.3. Initiation of Conditional Use Applications.
- Sec. 34.4. Application Requirements.
- Sec. 34.5. Site Plan Requirements.
- Sec. 34.6. Development Statistics Required.
- Sec. 34.7. Analysis Requirements.
- Sec. 34.8. Application Compliance and Completeness.
- Sec. 34.9. Administrative Processing of Applications.
- Sec. 34.10. Concurrent Consideration of Applications.
- Sec. 34.11. Investigations and Recommendation.
- Sec. 34.12. Notice of Public Hearing.
- Sec. 34.13. Public Notice Sign.
- Sec. 34.14. Special Notice Requirements For Halfway Houses and Related Uses.
- Sec. 34.15. Public Hearing.
- Sec. 34.16. Decision.
- Sec. 34.17. Withdrawal of Application.
- Sec. 34.18. Refunds When Application is Withdrawn.
- Sec. 34.19. Limitations on the Frequency of Filing Applications.
- Sec. 34.20. Notice of Action.
- Sec. 34.21. Incorporation Clause.

**Sec. 34.1. Authority to Amend.**

The Governing Body may from time to time amend the boundaries of any zoning district established in this Zoning Ordinance, and it may consider upon application the approval, conditional approval, or denial of conditional use applications.

**Sec. 34.2. Initiation of Proposals for Rezoning.**

An application to amend the official zoning map of the City, thus changing the boundaries of a zoning district, may be initiated by:

- (a) The Governing Body; or
- (b) Any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which an amendment is sought.

**Sec. 34.3. Initiation of Conditional Use Applications.**

An application for conditional use may be initiated by any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which the conditional use is sought.

**Sec. 34.4. Application Requirements.**

Applications to amend the official zoning map of this zoning ordinance or for a conditional use shall require submittal of an application requirements specified in this Section. The Zoning Administrator shall waive the application fee and may waive certain application requirements specified in this Section when an application for amendment of the official zoning map is initiated by the Governing Body.

- (a) Application fee as specified by this ordinance or established by resolution of the Governing Body;
- (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
- (c) Legal description of the property;
- (d) Survey plat of the property;
- (e) Letter of intent describing the proposed use of the property or other action requested;
- (f) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (g) Statistics regarding the proposed development;
- (h) Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application;
- (i) Description of any special conditions voluntarily made a part of the request; and
- (j) Other information as may be required by the Zoning Administrator.

**Sec. 34.5. Site Plan Requirements.**

Applications described in this Article shall include a site plan, which shall at minimum include on the site plan information specified in this Section. The Zoning Administrator may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in this Section are not essential to the review process.

- (a) Existing and proposed buildings and structures;
- (b) Parking and internal circulation;
- (c) Buffers, where required; and
- (d) Other information as may be required by the Zoning Administrator.

**Sec. 34.6. Development Statistics Required.**

Applications described in this Article shall submit development statistics and specifications shall at minimum include on the site plan or in written form the information specified in this Section. The Zoning Administrator may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information are not essential to the review process.

- (a) Maximum and proposed height of any structure;
- (b) Maximum and proposed gross square footage of the building area (nonresidential only);
- (c) Maximum and proposed number of dwelling units and minimum and proposed square footage of heated floor area for any dwelling unit (residential only);
- (d) Maximum and proposed lot coverage of building area (square feet and percent);
- (e) Minimum and proposed square footage of landscaped area (square feet and percent);
- (f) Minimum, maximum and proposed number of parking spaces; and
- (g) Other dimensional information as may be required by the Zoning Administrator.

**Sec. 34.7. Analysis Requirements.**

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned.
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools

**Article 34, Rezoning and Conditional Use Applications**  
**Zoning Ordinance City of Flowery Branch, GA**

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- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map.
- (f) 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 proposal
- (g) Existing use(s) and zoning of the subject property and nearby properties.
- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification.
- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district.
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance.

**Sec. 34.8. Application Compliance and Completeness.**

- (a) No application described in this Article shall be processed by the Zoning Administrator unless it complies with the procedural requirements of this Article and is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this Article.
- (b) If an application described and regulated by this Article does not comply with all provisions of this Article, the Zoning Administrator shall reject the application and refuse to process it.
- (c) In cases where more than one application (rezoning, conditional use, variance) pertaining to a particular piece of property is filed simultaneously, the applicant must prepare separate applications and meet all application requirements for each application filed; provided, however, that the Zoning Administrator may waive separate site plan or letter of intent filing requirements when they would be unnecessarily duplicative.

**Sec. 34.9. Administrative Processing of Applications.**

The Zoning Administrator is hereby authorized to establish administrative deadlines for the receipt of applications specified in this Article. Upon a finding by the Zoning Administrator that an application is complete and complies with the requirements of this Article, including deadlines, the application shall be marked received and approved for initiation, and the date of such consideration shall be indicated in the file of the application.

**Sec. 34.10. Concurrent Consideration of Applications.**

- (a) Concurrent Conditional Use Applications. In cases where an applicant is proposing a rezoning (i.e., amendment to the official zoning map), and where the applicant files an application to obtain a conditional use at the same time of filing a rezoning application, the two applications may be processed simultaneously, but the conditional use application shall not be considered until the rezoning application is approved (which may be the same public hearing or meeting), since the conditional use would not otherwise be permitted without the rezoning.
- (b) Concurrent Variance Applications. In cases where an applicant is proposing a rezoning (i.e., amendment to the official zoning map), and where the applicant files an application to obtain a variance at the same time of filing a rezoning application, the two applications may be processed simultaneously, but the variance application shall not be considered until the rezoning application is approved (which may be the same public hearing or meeting), since the variance would not otherwise be permitted without the rezoning.

**Sec. 34.11. Investigations and Recommendation.**

- (a) Within a reasonable period of time after acceptance of a complete application, the Zoning Administrator may send the application out for review by internal municipal departments and external agencies as may be appropriate (i.e., inter-agency review). Such internal municipal agencies should include the police department and public works/utilities department. External agencies may include but are not limited to the Hall County Board of Education; Georgia Regional Transportation Authority, Georgia Department of Transportation; Georgia Mountains Regional Development Center, adjacent local governments, and various departments of Hall County Government.
- (b) Any written comments received in a timely manner shall be submitted to the Governing Body for consideration, and any such comments shall become an official public record.
- (c) With respect to each rezoning or conditional use application, and any concurrent variances filed, the Zoning Administrator may investigate and make a recommendation regarding any or all of the relevant matters concerning the application. Any such investigation and recommendation shall if in writing be made available to the applicant and Governing Body prior to the public hearing held by the Governing Body and shall become an official public record.
- (d) Copies of the Zoning Administrator's findings and recommendations shall be provided to the applicant prior to the public hearing and shall be available upon

request to interested members of the public prior to or at public hearing on the matter.

**Sec. 34.12. Notice of Public Hearing.**

- (a) At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the Governing Body, the city shall cause to be published within a newspaper of general circulation within the City a notice of the public hearing before Mayor and City Council, on each application that is the subject of this Article. The notice shall state the time, place, and purpose of the public hearing.
- (b) If the zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then the notice shall include the location of the property, the present zoning classification, and the proposed zoning classification of the property.
- (c) Each public notice sign pertaining to a conditional use shall state the existing or proposed zoning classification and the proposed use of the property. Each public notice sign pertaining to a concurrent variance shall state the proposed zoning classification and the section or sections of the Zoning Ordinance proposed to be varied.

**Sec. 34.13. Public Notice Sign.**

- (a) For all applications involving an amendment to the official zoning map, application for conditional use, or application for a concurrent variance, the Zoning Administrator shall cause to have posted in a conspicuous location on said property one (1) or more sign(s).
- (b) The public notice sign shall be erected not less than fifteen (15) calendar days prior to the public hearing before the Governing Body pertaining to said application. Each public notice sign shall state the time, place, and purpose of the public hearing before the Governing Body, and the location of the property.
- (c) Each public notice sign pertaining to an amendment to the official zoning map shall state the present zoning classification and the proposed zoning classification of the property.
- (d) Each public notice sign pertaining to a conditional use shall state the existing or proposed zoning classification and the proposed use of the property.

**Sec. 34.14. Special Notice Requirements For Halfway Houses and Related Uses.**

This section is adopted pursuant to the specific requirements of the State Zoning Procedures Law. When a proposed zoning map amendment or conditional use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a duly noticed public hearing shall be held by the Governing Body on the proposed action in accordance with the procedures and requirements established in this zoning ordinance. In addition, the following requirements shall apply.

**Article 34, Rezoning and Conditional Use Applications**  
**Zoning Ordinance City of Flowery Branch, GA**

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- (a) Such public hearing before the Governing Body shall be held at least six (6) months but not more than nine (9) months prior to the date of final action on the application.
- (b) All published or posted notices of the public hearing shall include a prominent statement that the proposed zoning map amendment or conditional use relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency.
- (c) The published notice shall be at least six (6) column inches in size and shall not be located in the classified advertising section of the newspaper.

**Sec. 34.15. Public Hearing.**

The Governing Body shall hold a public hearing on all rezoning and conditional use applications in accordance with the public hearing procedures specified in Article 35 of this zoning ordinance.

**Sec. 34.16. Decision.**

- (a) Within a period of sixty-five (65) calendar days from the date of the public hearing held by the Governing Body on any such application(s) described in this Article, the Governing Body shall render a decision on the application(s).
- (b) The Governing Body may approve or disapprove the proposed rezoning or conditional use as applied for, or it may approve modifications of the application as originally proposed, and it may place conditions of approval on the application.
- (c) In rendering a decision on any such application, the Governing Body shall consider all information supplied by the applicant and Zoning Administrator.

**Sec. 34.17. Withdrawal of Application.**

Any application described in this Article may be withdrawn at any time at the discretion of the person or agency initiating such a request, upon written notice to the Zoning Administrator.

**Sec. 34.18. Refunds When Application is Withdrawn.**

- (a) When any application described in this Article is initiated by a party other than the Governing Body, and said application is withdrawn within ten (10) calendar days from the date of approval for initiation by the Zoning Administrator, one half (1/2) of the entire application fee paid by the applicant shall be refunded to the applicant. The Administrator shall refund that portion of the application fee within thirty (30) calendar days of the date of withdrawal of the application.
- (b) No portion of a required application fee shall be refunded on any application withdrawn by an applicant later than ten (10) calendar days from the date of approval for initiation by the Zoning Administrator.

**Sec. 34.19. Limitations on the Frequency of Filing Applications.**

- (a) No application regulated by this Article and affecting the same or any portion of property which was denied by the Governing Body shall be accepted for filing by a property owner until twelve (12) months shall have elapsed from the date said application was denied by Governing Body.
- (b) The same or any portion of property previously considered in a zoning map amendment or conditional use application which was denied by the Governing Body may not again be initiated by the Governing Body until the expiration of at least six (6) months immediately following the final decision rendered on the application by the Governing Body.

**Sec. 34.20. Notice of Action.**

The Zoning Administrator shall notify the applicant of the action taken by the Governing Body on the application no later than five (5) working days from the date the Governing Body took action on said application.

**Sec. 34.21. Incorporation Clause.**

This Article is intended to comply with the provisions of the Georgia Zoning Procedures Act, O.C.G.A. § 36-66 et. seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this Article is in conflict with any provision of the Act, the Act shall control. Or where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.