

ARTICLE XI

ADMINISTRATION AND ENFORCEMENT

Section 11.1 ADMINISTRATION AND ENFORCEMENT

The individual designated "Zoning Administrator" of the City of Lawrenceville shall administer and enforce this Ordinance. He or she may be provided with the assistance of such other persons as the City Council may direct.

If the administrative official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

⁵ Section 11.2 BUILDING PERMITS REQUIRED

No building or structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this Ordinance, unless he receives a written order from the Board of Appeals in the form of an administrative review or variance as provided by this Ordinance.

Section 11.3 APPLICATION FOR BUILDING PERMIT

The applicant for a building permit shall submit plans at a suitable scale showing the shape, size, and location of the lot to be built upon and the shape, size, height, use and location of the buildings to be erected, altered, or moved and of any buildings already occupying the lot, the number of dwelling units the building is designed to accommodate, the setback line of the buildings on adjoining lots and any other information needed to determine whether the provisions of this Ordinance are being followed.

If the plans conform with the provisions of this Ordinance, the City building codes and other Ordinances of the City, the permit shall be issued upon payment of the required fee. If compliance does not result, the building permit shall be refused by the Building Inspector stating such refusal in writing with the cause.

If no visible progress on construction or modification has been made within twelve (12) months of the date that said permit is issued, the permit becomes invalid. The Zoning Administrator may renew the permit pending review and recommendation of the Building Inspector. A renewal fee is required to be paid by the applicant before the permit is renewed.

Section 11.4 CERTIFICATE OF OCCUPANCY REQUIRED

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, until a certificate of occupancy shall have been issued by the administrative official stating that the proposed use of the building or land conforms to the provisions of this Ordinance.

A nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of occupancy shall have been issued by the administrative official. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provisions of this Ordinance.

A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator and a copy shall be furnished, on request, to any person.

³Section 11.5 BOARD OF ZONING APPEALS: ESTABLISHMENT AND PROCEDURE

(1) Composition, Appointment and Tenure

A Board of Appeals is hereby established, which shall consist of five (5) members, appointed by the Mayor, by and with consent of the City Council. Except for the initial appointments, the terms of the members shall be for two (2) years each. The initial appointment of the first three (3) members appointed shall serve for one (1) year. No member of the Board of Zoning Appeals may hold any other public office or position in the Municipality, except that one member may also be a member of the City of Lawrenceville Planning Commission. Members may be reappointed.

(2) Vacancies

Vacancies shall be filled by appointments for unexpired terms only and in the same manner as the original appointment.

(3) Removal

Any member of the Board of Zoning Appeals may be removed by the Mayor, with the advice and consent of the City Council, for cause after written notice and a public hearing. Any member who misses more than three (3) meetings in any one calendar quarter without excuse shall be removed from the Board by the Mayor and Council. The Chairman of the Board shall keep an attendance record and report attendance to the Mayor's office on a monthly basis.

(4) Compensation

All members of the Board of Zoning Appeals shall receive compensation in an amount to be determined by the Mayor and Council.

(5) Officers and Rules of Procedure

The Board of Zoning Appeals shall elect one (1) of its members as Chairman who shall serve for one (1) year or until such person is reelected or a successor is elected. The Director of Planning and Zoning shall act as Secretary for the Board of Zoning Appeals. Meetings shall be heard regularly, once a month, at the call of the Chairman and at such other times as the Board may determine. The Board shall adopt rules in accordance with the provisions of this section, shall keep minutes of its proceedings, showing the absence, vote or the failure to vote of each member, and shall keep records of its examination and other official actions, which minutes and records shall be filed in the Planning and Zoning office and open to the public for inspection.

(6) Quorum

For the purpose of transacting business, a quorum of the Board of Zoning Appeals shall be considered to be three (3) of the five (5) members.

(7) Design Review Board Variance

The Design Review Board shall have concurrent jurisdiction under the same procedures and standards as the Zoning Board of Appeals to hear and grant variances within the Downtown District Overlay Boundary.

⁶Section 11.6 THE BOARD OF APPEALS: POWER AND DUTIES

The Board of Appeals shall have the following powers and duties:

(1) Variances:

To authorize such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions and not to the intentional conduct of the requesting party, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this

Ordinance shall not be granted by the Board of Appeals unless and until:

- (a) A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district, that the special conditions and circumstances did not result from the actions of the applicant. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings on other districts shall be considered grounds for the issuance of a variance;
- (b) Notice of a public hearing shall be given as in Section 11.6(1)(b) above;
- (c) A public hearing has been held at which hearing any party in interest may appear in person, or by agent or by attorney, and be heard;
- (d) It has made a finding that the requirements of Section 11.6(1)(a) have been met by the applicant for a variance;
- (e) It has made a finding that the requested variance is owing to special conditions and not to the intentional conduct of the requesting party;
- (f) It has made a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum necessary variance that will make possible the reasonable use of the land, structure, or building; and,
- (g) It has made a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when

made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(2) Administrative Review:

- (a) Hearings, Appeals, Notice: Appeals to the Board of Appeals concerning interpretation or administration of the Zoning Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision rendered. Such appeals shall be taken within a reasonable time, not to exceed thirty (30) days or such lesser period as may be provided by the rules of the Board by filing with the administrative official and with the Board of Appeals a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of an appeal, give due notice thereof to all parties in interest, and after hearing, decide the same within a reasonable time. At the hearing, any party in interest may appear in person, or by agent or attorney, and be heard.

- (b) Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official, Planning Commission or other person or agency from whose action the appeal is taken certifies to the Board of Appeals after the notice of appeal is filed that by reason of facts stated in such certification a stay would in the opinion of the person making the certification, cause imminent peril to life and property. In such case, proceedings may be stayed by a restraining order issued by the Board of Appeals, or by a court of record, on application, on notice to the parties of interest and for good cause shown.

- (c) Hearing of Appeal: The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it, and give notice thereof to the parties concerned and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

In exercising the above-mentioned powers, and so long as such action is in conformity with the terms of this Ordinance, the Board shall have the power to reverse or affirm, wholly or partly, or to modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official, Planning Commission or other person or agency from whom the appeal is taken. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination from which the appeal was made, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of the Ordinance.

Section 11.7 APPEALS FROM THE BOARD OF APPEALS

Any person or persons severally or jointly aggrieved by any decision of the Board of Zoning Appeals may take an appeal to the Superior Court. Said appeal to the Superior Court shall be the same as an appeal to the Superior Court from any decision made by the Probate Court and as specified in Chapter 6-2 of the Georgia Code except, however, that said appeal may be filed within thirty (30) days from the date of the decision of the Board of Zoning Appeals, and upon failure to file said appeal within thirty (30) days, the said decision of the Board of Zoning Appeals shall be final; provided, however, that such an appeal will be limited to determining whether the Board of Appeals arbitrarily or capriciously abused its discretion in exercising the powers granted herein.

Section 11.8 DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF APPEALS, CITY COUNCIL AND COURTS ON MATTERS OF APPEAL

It is the intent of this Ordinance that all questions of interpretation shall be first presented to the Planning Commission, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the Board of Appeals shall be to the courts as provided by law.

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Ordinance. Under this Ordinance, the City Council shall have only the following duties: (1) considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law, (2) establishing a schedule of fees and charges

as stated in this Ordinance, and (3) such other duties as may be established by laws of the State of Georgia or subsequently enacted Ordinances of the City.

Section 11.9 ADMINISTRATIVE VARIANCES

- (1) To issue building permits as required below:

The Planning Director shall have the power to grant variances (except for density and use variances) from the development standards of this Ordinance where, in his opinion, the intent of the Ordinance can be achieved and equal performance obtained by granting a variance. The authority to grant such variance shall be limited to variances from the following requirements:

- (a) Front yard or yard adjacent to public street - variance not to exceed ten (10) feet.
- (b) Side yard - variance not to exceed five (5) feet.
- (c) Rear yard - variance not to exceed ten (10) feet.

¹Section 11.10 VARIANCES WITHIN THE DOWNTOWN OVERLAY DISTRICT

In the downtown overlay district, a party must elect to become a part of the new downtown revitalization zoning sub-areas zoning restrictions prior to filing any variance request. Without electing to apply the new revitalization Ordinance to the subject property, a party cannot remain under the restrictions of the original zoning classifications prior to the adoption of the overlay district and seek a variance from the requirements of any of the City's Zoning or Development Ordinances or requirements. The owners/applicants shall have the full right to seek a variance only in the event that the variance is applied to the new revitalization sub-areas zoning on the Applicant's property.

^{2 4}Section 11.11 DESIGN REVIEW BOARD ESTABLISHMENT AND PROCEDURE

- (1) ESTABLISHMENT

- (a) A Design Review Board is hereby established, which shall consist of seven (7) members, appointed by the Mayor, by and with the consent of the City Council. Except for the initial appointments, the terms of the members shall be for two (2) years each. The initial appointment of the first four (4) members appointed shall serve for one (1) year. Members may be reappointed. Members shall have a term

limit of two consecutive terms before having to leave office for at least one term.

- (b) The Design Review Board shall include the following seven (7) members:
 - (1) Two (2) Downtown Development Authority members;
 - (2) Two (2) at-large citizens;
 - (3) One (1) landscape architect;
 - (4) One (1) registered architect; and
 - (5) One (1) engineer.
- (c) All members of the Design Review Board shall receive compensation in an amount to be determined by the Mayor and City Council.
- (d) Vacancies shall be filled by appointments for unexpired terms only and in the same manner as the original appointment.
- (e) Any member of the Design Review Board may be removed by the Mayor, with the advice and consent of the City Council, for cause after written notice and a public hearing.

(2) PROCEEDINGS OF THE DESIGN REVIEW BOARD

- (a) The Board shall elect a Chair and a Vice Chair from its members who shall serve for one year or until their successors are elected. Meetings of the Board shall be held at the call of the Chair, the call of the City of Lawrenceville Director of Planning and Zoning or at such other times as four (4) members of the Board may determine. All meetings of the Board shall be open to the public pursuant to Georgia Law.
- (b) A minimum of four (4) members of the Board shall constitute a quorum. Any act of the Board shall require a majority vote of the Board members at a meeting at which a quorum is present.
- (c) The Director of Planning and Zoning shall serve as a non-voting secretary to the Design Review Board. The Board

shall maintain minutes of its proceedings, including the results of all votes taken and shall maintain records of its examinations and other official actions, all of which shall be filed in the office of the Planning and Zoning Department.

(3) APPLICATION FOR DESIGN REVIEW BOARD APPROVAL

- (a) The Director of Planning and Zoning shall prepare and furnish an application form to any person or persons seeking a variance(s) for existing and/or new buildings and/or premises located in the Overlay District. The application form will, at a minimum, require identification of the subject property and a description of the requested variances.
- (b) In addition to the completion of the Application for Design Review Board Approval, any person or persons seeking a variance(s) for existing and/or new buildings and/or premises located in the Overlay District shall, at a minimum, provide the Board with the following:
 - (1) Colored large boards with detailed floor plans for the project;
 - (2) Colored charts detailing the elevations of all sides of the building for which the variance(s) are sought; and,
 - (3) Any other plan(s) or drawing(s) detailing the variance(s) requested in an illustrated format.
- (c) The submission of a completed application form and, at a minimum, the items identified in Section 11.11(3)(b) above is a prerequisite to the consideration by the Design Review Board of the requested variance(s).
- (d) Nothing in this code section shall be read to limit the Design Review Board's authority to require any person or persons seeking a variance(s) for existing and/or new buildings and/or premises located in the Overlay District to submit further plans or drawings before final action is taken on said person's or persons' application.

(4) POWERS AND DUTIES OF THE DESIGN REVIEW BOARD

- (a) The Board shall review applications for:
 - (1) All variances requested for existing and/or new buildings and/or premises located in the Overlay District, regardless of whether the

property where the existing and/or new buildings and/or premises located is in or out of the Overlay Zoning Districts;

- (2) All variances from the architectural standards for any exterior features of construction, alteration, restoration, moving, demolition or repair of existing buildings or improvements involving or resulting in a change in the existing structural composition or architectural design or character of such building or improvement;
 - (b) The Board shall have the power to grant or deny variances and exceptions for existing and new buildings from the architectural requirements of the Overlay District provided the maximum effort is made to comply with the intent of the design standards established in the architectural requirements of the Overlay District.
 - (c) The Board shall have the power to grant or deny variances and exceptions for the premises from the design standards of the Overlay District provided the maximum effort is made to comply with the intent of the design standards established for the requirements of the Overlay District.
 - (d) The Board shall act in an advisory role to other City departments, boards and commissions.
 - (e) Recommend from time to time further design standards consistent with the purposes, intents, and standards of the Overlay District.
 - (f) The following shall not be subject to review and action by the Board:
 - (1) The ordinary maintenance or repair of any exterior elements of any building or structure;
 - (2) The construction, reconstruction, alteration or demolition of any such elements which the authorized City officers shall certify as required for public safety.
 - (3) Any variation of state law requirements.
- (5) APPEALS FROM DECISIONS

Any person or persons severally or jointly aggrieved by any decision of the Design Review Board may file a written appeal with the Mayor and Council of the City of Lawrenceville within thirty (30) calendar days after rendition of the decision, and upon failure to file said appeal within thirty (30) calendar days, the said decision of the Design Review Board shall be final. The procedures for such an appeal are contained in 11.6.4 of the City of Lawrenceville Zoning Ordinance. Such

appeal shall be limited to determining whether the Design Review Board arbitrarily or capriciously abused its discretion in exercising the powers granted herein.

¹ *Ordinance to Amend the City of Lawrenceville's Zoning Ordinance to Add a Section 11.10 Entitled Variances within the Downtown Overlay District was adopted on January 3, 2005.*

² *Ordinance to Amend Article XI of the 2005 Lawrenceville Zoning Ordinance to Add Section 11.11, "Design Review Board: Establishment and Procedure" was adopted on March 15, 2006.*

³ *Ordinance to Amend Sections 11.5 and 11.6 was adopted on June 5, 2006.*

⁴ *Ordinance to Amend Sections 11.11(3) and (4) of the City of Lawrenceville's 2005 Lawrenceville Zoning Ordinance was adopted on May 7, 2007.*

⁵ *Ordinance to Amend Articles V, VI, VII, XI, and XVI of the City of Lawrenceville's 2005 Lawrenceville Zoning Ordinance was adopted on October 6, 2008.*

⁶ *Ordinance to Amend Section 11.6 of the City of Lawrenceville's 2005 Lawrenceville Zoning Ordinance was adopted on October 5, 2009.*