

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE O-2021-05

AN ORDINANCE AMENDING SECTIONS OF THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON, GEORGIA, INCLUDING THOSE IN CHAPTER 23, "STREAM BUFFER PROTECTION" SECTION 23-105, "LAND DEVELOPMENT REQUIREMENTS," SECTION 23-107, "ADDITIONAL INFORMATION REQUIREMENTS FOR DEVELOPMENT ON BUFFER ZONE PROPERTIES;" SECTION 23-111, "ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW;" AND CHAPTER 39, "LAND DEVELOPMENT REGULATIONS;" TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The City of Hoschton has assigned final authority to the Hoschton Planning and Zoning Commission to decide whether variances will be granted to stream buffer protection requirements of Chapter 23 of the Code of Ordinances; and

WHEREAS, The City of Hoschton desires to discontinue the Planning and Zoning Commission in order to streamline the various zoning and subdivision platting processes, thereby saving staff time preparing agendas, attending planning commission meetings, and preparing minutes of such meetings in accordance with public meeting requirements; and

WHEREAS, By discontinuing the planning commission, the city will shorten the processing times for annexation, zoning preliminary plat and variance applications because said applications will travel directly to the Hoschton City Council for decision, and such time savings will translate into monetary savings for property owners and development applicants; and

WHEREAS, Accordingly, the discontinuance of the Hoschton Planning and Zoning Commission necessitates the reassignment of responsibility for stream buffer variances from said commission to the Hoschton City Council; and

WHEREAS, Additionally, the Hoschton City Council finds that some of the requirements to apply for and gain a stream buffer variances are cumbersome and unnecessary; and

WHEREAS, the Hoschton City Council therefore desires that certain provisions be repealed or amended so that the stream buffer variance process is tied more closely to existing variance provisions in the zoning ordinance and to provide relief to onerous requirements;

Now, therefore, Council of the City of Hoschton hereby ordains that the Code of Ordinances of the City of Hoschton, Georgia, is amended in the following respects:

Section 1.

Subsection (2) of Section 23-105, "Land Development Requirements," is amended as follows:

"2. Variance Procedures. Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

A. ~~Where a parcel was platted prior to the effective date of this ordinance, and its shape, topography or other existing physical condition prevents land development consistent with this ordinance, and the City of Hoschton finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, t~~The Planning and Zoning Commission of the City of Hoschton **City Council** may grant a variance from the buffer and setback requirements **established by this ordinance** hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

B. ~~Except as provided above, the Planning and Zoning Commission of the City of Hoschton shall grant no variance from any provision of this ordinance without~~ **Prior to acting upon a variance, the Hoschton City Council shall** conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Planning and Zoning Commission. The City of Hoschton shall give public notice of each such public hearing in a newspaper of general circulation within the City of Hoschton. The City of Hoschton shall ~~require the applicant~~ require the applicant post a sign giving notice of the proposed variance and the **date, place and time of the public hearing.** The sign shall be of ~~a size and~~ such a size and posted in such location on the property as to be clearly visible from the primary adjacent road right-of-way. **The public hearing shall be conducted in accordance with procedures specified in the Hoschton Zoning Ordinance, Article VIII, "Zoning Amendments and Applications," Section 801, "Procedures for Calling and Conducting a Public Hearing."** ~~Variances will be considered only in the following cases:~~

~~1) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.~~

~~2) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.~~

~~Variances will not be considered when, following the adoption of this ordinance, actions of any property owner of a given property have created conditions of a hardship on that property.~~

C. At a minimum, a variance request shall include the following information:

~~1) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by the field survey;~~

~~2) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;~~

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- ~~3) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;~~
- ~~4) Documentation of unusual hardship should the buffer be maintained;~~
- ~~5) At least one alternative plan which does not include a buffer or setback intrusion or an explanation of why such site plan is not possible;~~
- ~~6) A calculation of the total area and length of the proposed intrusion;~~
- ~~7) A stormwater management site plan, if applicable; and~~
- ~~8) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.~~

for variance applications specified by the Hoschton Zoning Ordinance, Article VIII, "Zoning Amendments and Applications," Section 805, "Variances," subsection "6," "Application Requirements."

D. The following factors will be considered in determining whether to issue a variance: The basis for deciding upon variances to the stream buffer requirements of this ordinance shall be those criteria for variances specified in the Hoschton Zoning Ordinance, Article VIII, "Zoning Amendments and Applications," Section 805, "Variances," subsection "9," "Criteria for Variances."

- ~~1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;~~
- ~~2) The locations of all streams on the property including along property boundaries;~~
- ~~3) The location and extent of the proposed buffer or setback intrusion;~~
- ~~4) Whether alternative designs are possible which require less intrusion or no intrusion;~~
- ~~5) The long term and construction water quality impacts of the proposed variance; and~~
- ~~6) Whether issuance of the variance is at least as protective of natural resources and the environment.~~

In addition to said variance criteria, the Hoschton City Council should consider the extent to which the proposed buffer or setback intrusion can be reduced and whether any long-term water quality impacts might result from granting the proposed variance. To these ends, the Hoschton City Council shall be authorized to and may impose conditions of

variance approval to mitigate water quality impacts anticipated to result from the proposed development.

Section 3.

Section 23-107, “Additional Information Requirements for Development on Buffer Zone Properties,” which reads as shown in ~~strikeout~~ below, is hereby amended to read as follows:

~~“Section 23-107. Additional Information Requirements for Development on Buffer Zone Properties. Reserved.~~

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

~~1. A site plan showing:~~

~~A. The location of all streams on the property;~~

~~B. Limits of required stream buffers and setbacks on the property;~~

~~C. Buffer zone topography with contour lines at no greater than five (5) foot contour intervals;~~

~~D. Delineation of forested and open areas in the buffer zone; and~~

~~E. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback.~~

~~2. A description of all proposed land development within the buffer and setback.~~

~~3. Any other documentation the City of Hoschton may reasonably deem necessary for review of the application, and to insure the buffer zone ordinance is addressed in the approval process. All buffer and setback areas must be recorded on the final plat of the property following plan approval.”~~

Section 4.

Section 23-111, “Administrative Appeal and Judicial Review” is amended to read as follows:

“Section 23-111. Administrative Appeal and Judicial Review.

1. Administrative Appeal. Any person aggrieved by an **administrative** decision or order of the City of Hoschton **in the administration or interpretation of this ordinance**, may appeal ~~in writing within 30 days after the issuance of such decision or order to the City Administrator of the City of Hoschton, and shall be entitled to a hearing before the Mayor and Council of the City of Hoschton within ten days of receipt of written appeal~~ **said administrative decision in**

accordance with the Hoschton Zoning Ordinance, Article VIII, "Zoning Amendments and Applications," Section 806, "Appeals of Administrative Decisions".

2. Judicial Review. Any person aggrieved by a decision or order of the ~~City of Hoschton~~ **City Council**, after exhausting all administrative remedies, shall have the right to appeal ~~de novo to the Municipal Court of the City of Hoschton~~ **to a court of proper jurisdiction as provided by law.**"

Section 5.

Chapter 39, "Land Development Regulations" is hereby amended to read as follows:

"Reserved."

Section 6.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

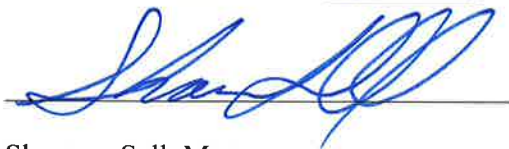
Section 7.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 8.

The effective date of this ordinance shall be upon final approval by the Mayor of the City of the Hoschton pursuant to Section 2.14(b) of the City Charter.

Adopted this 19th day of March, 2021.



Shannon Sell, Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

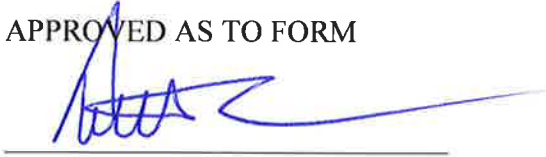
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ATTEST:



Jennifer Kidd-Harrison, City Clerk

APPROVED AS TO FORM



Abbott S. Hayes, Jr., City Attorney

