

## Chapter 22

### ZONING\*

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\***Cross references**--Administration, Ch. 2; buildings, construction and related activities, Ch. 5; floodplain regulations, Ch. 8; historic preservation, Ch. 9; streets and sidewalks, Ch. 16; subdivisions, Ch. 17; taxation, revenue and miscellaneous business regulations, Ch. 18; trees and landscaping, Ch. 20.

**State law references**--City's authority to adopt plans and exercise the power of zoning, Ga. Const., art. 9, sec. 2, par. 4; The Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.; local government zoning powers, O.C.G.A. § 36-66-2; conflicts of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.; effect of zoning laws on covenants running with the land, O.C.G.A. § 44-5-60.

Section 22-400A      ARTICLE    XIII.      THOMASVILLE      BOARD      OF  
ARCHITECTURAL REVIEW AND ZONING APPEALS

Section 22-401 Created.

There is hereby established, under the power vested in the city by virtue of the terms and provisions of the General Planning and Zoning Enabling Act of 1957, the Thomasville Board of Architectural Review and Zoning Appeals, referred to throughout this article as the board, to be governed by the following provisions.

(Code 1958, § 2-41; Ord, of 10-14-91; Ord of 12-19-07 § I)

Section 22-402 Membership and appointments.

The Thomasville Board of Zoning Appeals shall consist of five (5) members appointed by the city council. None of the board members shall hold any other public office. One member shall be a design professional. Board members shall be removed for cause, upon written charges, and after public hearing. Any member of the board shall be disqualified to act upon a matter before

the board with respect to property in which the member has an interest.  
(Code 1958, § 24-19; Ord. of 10-14-91, § II(24-19) Ord of 12-19-07)

Section 22-403 Term of office.

The term of office for each member of the board shall be for three (3) years. However, in the appointment of the first board, two (2) members shall be appointed for three (3) years and two (2) for two (2) years and one (1) for one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.  
(Code 1958, § 24-19.01; Ord of 12-19-07)

Section 22-404 Compensation.

Each member of the board of appeals appointed by the city shall be paid a per diem compensation of forty dollars (\$40.00) for each day during which such member attends public hearings held by such board on matters of the board.  
(Code 1958 § 24-19.02; Ord. of 7-13-87(2), § I)

Section 22-405 Rules and procedures.

The board shall elect one (1) of its members as chairman, who shall serve for one (1) year or until he is reelected or his successor is elected. The board of appeals shall appoint a secretary who may be an officer of the city, or of the planning and zoning commission. The board shall have authority to adopt rules of procedure. Meetings of the board shall be held at the call of the chairman, or in his absence the acting chairman. The chairman, or the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of such board and shall be a public record. The decisions of the board shall be by resolution, which resolution shall contain a statement of the grounds of its decision or action. The full text of the resolution shall be sent to the appellant. No appeal requesting the same relief in regard to the same property shall be received or heard by the board for a period of twelve (12) months following the date of such resolution, except that this limitation shall not affect the right of such board to grant a rehearing as provided in the rules of procedure adopted by the board.  
(Code 1958, § 24-19.03)

Section 22-406 Administrative assistance.

The zoning administrator shall provide such technical, administrative, and clerical assistance and office space as is required by the board to carry out its function under the provisions of this article.  
(Code 1958, § 24-19.04)

Section 22-407 Who may appeal.

Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the governing authority affected by any decision of the zoning administrator. Such appeals shall be filed no later than thirty (30) days after the date of notification of the

decision appealed from by filing with the zoning administrator and with the board a notice of appeal specifying the grounds of the appeal. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (Code 1958, § 24-19.05)

Section 22-408 Legal proceedings stayed.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the board or by a court of record on application, on notice to the zoning administrator, and on due cause shown. (Code 1958, § 24-19.06)

Section 22-409 Presentation of evidence.

The appellant and any public agency or private individual shall be entitled to present evidence on matters before the board, and the board may request technical service, advice, data or factual evidence from the planning commission and the city council for assistance in reaching decisions. (Code 1958, § 24-19.07)

Section 22-410 Extent of board of appeals' power.

The board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the zoning administrator, and to that end shall have all the powers of the zoning administrator. The board may direct the issuance of a permit. It shall be the duty of the zoning administrator to carry out the decisions of the board. (Code 1958, § 24-19.08)

Section 22-411 Notice of hearing.

Before making its decision on any matter within the board's purview, the board shall hold a public hearing thereon. At least fifteen (15) days notice of the time and place of such hearing shall be sent to the appellant or petitioner by U.S. mail at his last known address and to the owners of all properties either adjoining the property with which the hearing is concerned or situated directly across a public right-of-way from such property. Such notice shall contain the name of the appellant or petitioner, the date, time, and place set for the hearing, and a brief statement of the nature of the hearing. (Code 1958, § 24-19.09)

Section 22-412 Newspaper notice; appearances; time limit.

(a) The board shall give public notice of the hearing in the newspaper used as the official legal organ of the city, published for two (2) consecutive issues at least fifteen (15) days prior to the date of the public hearing.

(b) Any party may appear at the public hearing in person or by agent or attorney.

(c) The board shall reach a decision following a public hearing within thirty (30) days.  
(Code 1958 §§ 24-19.10--24-19.12)

Section 22-413 Appeals from decisions of the zoning administrator.

The board shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of this article.

(Code 1958, § 24-19.13)

Section 22-414 Request for a variance.

(a) The board may authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done; provided, however, that a variance shall not be granted for a use of land or building or structure that is prohibited by this article in the district in question. Such variance may be granted in an individual case upon a finding by the board that one or more of the following exists:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (2) The application of this article to this particular piece of property would create a practical difficulty or unnecessary hardship; and,
- (3) Such conditions are peculiar to the particular piece of property involved;
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this article;
- (5) A literal interpretation of this article would deprive the applicant of any rights that others in the same district are allowed;

(b) Provided that the board of appeals may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.

(c) Wherever the board of appeals shall find, in the case of any permit granted pursuant to the provisions of this article, that any of the terms, conditions or restrictions upon which such permit was granted are not being complied with, the board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.

(Code 1958, § 24-19.14)

(2005 (Sec.22-414a), Amended, 06/29/2005)

Section 22-415 Forms for appeal; fee.

Appeals shall be made on forms provided by the administrative offices of the Planning Department, and all information required on such forms shall be provided by the appellant. Forms shall be filed with the board, and the appellant shall pay the board for expenses incidental to the appeal. No form shall be accepted by the board unless it contains all pertinent information and is accompanied by a fee payable to the City to defray expenses, the amount of which fee shall be on file at the administrative offices of the Planning Department.

(Code 1958, § 24-19.15)

(Sec.22-415, Amended, 11/22/2004)

Section 22-416 through 22-444 RESERVED