



DeKalb County Department of Planning & Sustainability

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**Planning Commission Hearing Date: May 2, 2023
Board of Commissioners Hearing Date: May 25, 2023**

TEXT AMENDMENT ANALYSIS

AGENDA NO: 2022-2543 **ZONING CASE NO.:** TA-23-1246181 **COMMISSION DISTRICTS:** ALL

APPLICANT: Department of Planning & Sustainability

SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS: CHAPTER 27-ZONING ORDINANCE, INCLUDING BUT NOT LIMITED TO SECTION 9.1.3 (DEFINED TERMS), SECTION 7.1.2 (GOVERNING BODIES), SECTION 7.2.4 (PUBLIC HEARINGS), SECTION 7.5.8 (APPEALS OF DECISIONS OF THE ZONING BOARD OF APPEALS), AND OTHER APPLICABLE SECTIONS OF ARTICLE 7.

REASON FOR REQUEST:

House Bill 1405, a revision to the O.C.G.A §36-66 *Zoning Procedures*, was approved by the Georgia Legislature in the Spring of 2022 and ratified by the Governor on May 13, 2022. This major revision to zoning procedures, which provide minimum statewide directives for many of the zoning related procedures that we administer, takes effect on July 1, 2023. The *Zoning Ordinance* must be updated to reflect these procedural changes by the effective date. The table below summarizes the major changes in state law and provide the corresponding sections of the *Zoning Ordinance* that will need to be revised.

Zoning Procedures Law – Updates to Zoning Ordinance by July 1, 2023

O.C.G.A Statute	Topic	Affected Zoning Ordinance Sec.
§36-66-1.1	Definition of “quasi-judicial”	Sec. 9.1.3. -add definition Sec. 7.1.2 – include reference or use to describe ZBA
§36-66-3	Definition of “zoning”	Sec. 9.1.3. -add definition
§36-66-4	Definition of “zoning decision”	Sec. 9.1.3. -update definition
§36-66-4a	Public hearing	Sec. 7.2.4. -public hearing procedures <i>*create a matrix</i>
§36-66-4f	Halfway houses, drug rehab ctrs, etc.	Sec. 4.1.3. – update Use Table to require SLUP for all zoning districts Sec. 4.2.48 – update for consistency with 6–9-month public hearing, notice, & advertising requirements
§36-66-4g	Quasi-judicial hearings/notices	Sec. 7.1.2 and/or 7.2.4 – update to include notice to owner of

		subject property & new minimum 30-day notice requirement instead of 15 days
§36-66-4h	Public hearing & notice procedures for multi-family uses in single-family zoning districts	Sec. 7.2.4. -public hearing procedures **major fiscal impact
§36-66-5.1	Appeal of Quasi-judicial decisions and designated staff for court filings	Sec. 7.5.8. – update to include designated staff person to receive court summonses

The proposed changes to the *Zoning Ordinance* are enclosed in this packet. Legal and Planning Staff are still refining this set of text amendments as we seek additional guidance regarding implementation. Staff recommends a deferral to the June 27, 2023 Board of Commissioners’ meeting for final adoption.

STAFF RECOMMENDATION: Deferral to the June 27, 2023 Board of Commissioners’ meeting.

LEGEND

Text = Existing/unchanged text

Text = Relocated existing text

Text = Proposed new text

~~Text~~ = Proposed deleted text

Sec. 7.2.4. - Public hearings.

- A. Zoning decisions. The term "zoning decision" is defined in article 9 by reference to the definition of "zoning decision" set forth in state law, O.C.G.A. § 36-66-3, as it now exists and may be amended hereafter.
- B. Zoning decisions initiated by the county. For any zoning decision initiated by the county at least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the board of commissioners, the county shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county, a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.
- C. Zoning decisions, appeals to the zoning board of appeals, variances, extensions of special land use permits, and major modifications of conditions initiated by a party other than the county. For any zoning decision, appeal to the zoning board of appeals, variance, extension of special land use permits, or major modification of conditions initiated by a party other than the county, notice of the public hearing shall be provided as follows:
 - 1. Written notice of each public hearing shall state the nature of the proposed change, and the date, time, and place of the public hearing before either the planning commission, zoning board of appeals or the board of commissioners and shall be mailed by first class mail by the director of planning to **the owner of the property that is the subject of the proposed action**, all owners of property within two-hundred-fifty (250) feet of the boundaries adjoining the subject property, as such property owners are listed on the records of DeKalb County tax commissioner, at least ~~fifteen (15)~~ **thirty (30)** days prior to said public hearing.
 - 2. Signs shall be posted on the subject property at least fifteen (15) days and not more than forty-five (45) days prior to the public hearing before the board of commissioners, the planning commission or the zoning board of appeals. The required information on each sign shall be as provided in O.C.G.A. § 36-66-1 et seq., as it now exists and may be amended hereafter. At least one (1) sign shall be posted on each street on which the subject property has frontage in a conspicuous location within ten (10) feet of the right-of-way. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign may be read by the traveling public in both directions, and the applicant shall pay a sign fee, in an amount to be established by the board of commissioners, to the planning department.
 - 3. One (1) notice sign may serve both the application for an amendment to the official zoning map and/or the application for a special land use permit, as long as the sign states the relevant information for all hearings relating to those actions.
 - 4. A dated photograph of each sign shall be submitted by the applicant to the director of planning as evidence of its proper posting.

5. The county shall cause a notice of each public hearing regarding a proposed zoning decision to be published in a newspaper of general circulation within the county at least fifteen (15) days and not more than forty-five (45) days prior to the public hearing. The notice shall include the date, time and place of the hearing before the planning commission, the board of commissioners, and/or the zoning board of appeals, the address of the property, the present zoning classification of the property, the proposed zoning classification of the property, the nature of the variance sought, and the proposed special land use, as applicable.
6. Where proposed actions include any combination of a change in zoning classification, special land use permit, and/or major modification for the same property, only one public hearing shall be required.

~~D. Staff's analysis and written recommendations shall be available in the planning department and on the departmental website within six (6) business days prior to any public meeting held by the zoning board of appeals, the planning commission or the board of commissioners.~~

D. Zoning decisions [not initiated by owner or owner's authorized agent] related to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions; to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning; or a decision providing for the abolition of all single-family residential zoning classifications within the territorial boundaries of a local government or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of a local government to multifamily residential uses of property, such zoning decision must be adopted in the following manner:

1. The zoning decision shall be adopted at two regular meetings of the local government making the zoning decision, during a period of not less than 21 days apart; and
2. Prior to the first meeting provided for in subparagraph (1) of this paragraph, at least two public hearings shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under subsection (a) of this Code section. The local government shall give notice of such hearing by:
 - (i) Posting notice on each affected premises in the manner prescribed by subsection (b) of this Code section; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and
 - (ii) Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of each hearing at least 15 days and not more than 45 days prior to the date of the hearing. Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice shall be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the local government and in the office of the clerk of the superior court of the county of the legal situs of the local government for the purpose of examination and inspection by the public. The local government shall furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

E. Staff's analysis and written recommendations shall be available in the planning department and on the departmental website within six (6) business days prior to any public meeting held by the zoning board of appeals, the planning commission or the board of commissioners.

27-7.3 DIVISION 3. - ZONING AND COMPREHENSIVE PLAN AMENDMENTS AND PROCEDURES

Sec. 7.3.4. - Standards and factors governing review of proposed amendments to the comprehensive plan map.

The following standards and factors are found to be relevant for evaluating applications for amendments to the comprehensive plan map and shall govern the review of all proposed amendments to the comprehensive plan map:

- A. Whether the proposed land use change will permit uses that are suitable in consideration of the use and development of adjacent and nearby property or properties.
- B. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property or properties.
- C. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- D. Whether the amendment is consistent with the written policies in the comprehensive plan text and any applicable small areas studies.
- E. Whether there are potential impacts on property or properties in an adjoining governmental jurisdiction, in cases of proposed changes near county or municipal boundary lines.
- F. Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.
- G. Whether there will be an impact on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

[Copies of these standards and factors shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners.](#)

([Ord. No. 15-06](#) , 8-25-2015)

Sec. 7.3.5. - Standards and factors governing review of proposed amendments to the official zoning map.

The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the official zoning map:

- A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.
- B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.
- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.
- E. 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.
- F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

- G. 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.
- H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

Copies of these standards and factors shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners.

27-7.4 DIVISION 4. - SPECIAL LAND USE PERMITS

Sec. 7.4.7. - Additional criteria for specified uses.

In addition to the criteria contained in section 7.4.6 above, for which each applicant for a special land use permit is required to provide information, the following additional criteria shall apply to specific uses as specified below. Copies of these standards and factors/criteria shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners. No application for a special land use permit for the uses specified below shall be granted by the board of commissioners unless it is determined that, in addition to meeting the requirements contained within the zoning district in which such property is located and the criteria contained in section 7.4.6 above, and complying with applicable regulations in article 4, satisfactory provisions and arrangements have been made concerning each of the following criteria:

- A. *Telecommunications towers and antennas.* In determining whether to authorize a special land use permit for a telecommunication tower or antenna, the board of commissioners shall comply with and apply the requirements of section 4.2.57.
- B. *Mine, mining operation, gravel pit, quarry, or sand pit.* In determining whether to authorize a special land use permit for a mine, mining operation, gravel pit, quarry, or sand pit, the board of commissioners shall also consider each of the following criteria:
 - 1. Whether the type and volume of traffic associated with such use will cause congestion in the streets and will create noise and vibration along streets used for residential purposes or adjacent to activity centers.
 - 2. Whether the applicant has provided a soil erosion control plan and a reuse or reclamation plan which meets the requirements of DeKalb County and of the Georgia Surface Mining Act, O.C.G.A. § 12-4-70 et seq., as amended, and the Rules of Department of Natural Resources, Chapter 391-3-3, as amended.
 - 3. Whether or not the applicant meets the requirements of the county's noise ordinance.
- C. *Child day care facility.* In determining whether to authorize a special land use permit for a child day care facility, the board of commissioners shall also consider each of the following criteria:
 - 1. Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility.
 - 2. Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjoining properties so as not to adversely impact any adjoining land use.
 - 3. Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility.
 - 4. Whether the character of the exterior of the proposed structure will be compatible with the residential character of the buildings in the zoning district in which the child day care facility is proposed to be located, if proposed for a residential zoned district.

- D. *Biomedical waste disposal facilities, disposal facilities, landfills, county solid waste disposal facilities, county solid waste landfills, private industry solid waste disposal facilities, solid waste handling facilities, solid waste thermal treatment technology facilities, and disposal facilities for hazardous and/or toxic materials including radioactive materials.*
1. In determining whether to authorize a special land use permit for a biomedical waste disposal facility, disposal facility, landfill, county solid waste disposal facility, county solid waste landfill, private industry solid waste disposal facility, solid waste handling facility, solid waste thermal treatment technology facility, or disposal facility for hazardous and/or toxic materials including radioactive materials, the board of commissioners shall also consider each of the following criteria:
 - a. Whether the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects.
 - b. Whether the proposed use will not have a significant deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods.
 - c. Whether the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility.
 - d. Whether the proposed use does not represent an over-concentration of such uses in the area.
 2. An assessment shall be prepared by the DeKalb County Sanitation Division regarding item 1.d. above.

Sec. 7.4.10. - Appeals of decisions of the board of commissioners.

All appeals of all final decisions of the board of commissioners under the provisions of this division shall be as follows:

- A. Any person aggrieved by a final decision of the board on an amendment to the zoning ordinance which rezones property from one (1) zoning classification to another or which changes zoning conditions, or which denies any such ordinances may seek review of such decision [as set forth in section 7.5.8.](#)
- B. Any person aggrieved by a final decision of the board on a special land use permit may seek review of such decision [as set forth in section 7.5.8.](#)

27-7.5 DIVISION 5. - VARIANCES AND APPEALS TO THE ZONING BOARD OF APPEALS

Sec. 7.5.3. - Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this chapter and chapter 21 where the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in this section to the facts of each case. The board may attach reasonable conditions to any approved variance in accordance with section 7.3.9. Once imposed, conditions shall become an integral part of the approved variance and shall be enforced as such. No changes to an approved condition attached to a variance shall be authorized except by re-application to the zoning board of appeals in full compliance

with the applicable provisions of this division. No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter and the comprehensive plan. [Copies of these standards and factors shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners.](#) The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

- A. Variances from the provisions or requirements of this chapter other than variances described in section 7.5.4 shall be authorized only upon making all of the following findings in writing:
 1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district, as distinguished from a special privilege or convenience sought by the property owner.
 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.
 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.
 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.
 5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

Sec. 7.5.4. - Applications for variances to reduce or waive off-street parking or loading space requirements.

The zoning board of appeals shall hear and decide applications for variances to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section. All such applications shall be heard and decided based on the notice requirements of section 7.2.4. The zoning board of appeals may waive or reduce the required number of parking or loading spaces in any district only upon an expressed finding that:

- A. The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces;
- B. The lot upon which the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station;
- C. The provision of the full number of parking spaces would have a deleterious effect on a historic building, site, district or archaeological resource;
- D. The use has a characteristic that differentiates it from the typical use example used in the formulation of this zoning ordinance;
- E. The location of the proposed development is relatively isolated where the opportunity for diversity of use, pedestrian access, and alternative modes is not available; or
- F. The developer is providing the additional spaces for general public parking (for hourly or daily parking charges) to serve surrounding development.

Copies of these standards and factors shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners.

Sec. 7.5.6. - Decision by the zoning board of appeals.

Each application presented to the zoning board of appeals regarding a variance shall be scheduled for a public hearing within sixty (60) days of the filing of a complete application and shall be supported by findings and conclusions which shall be a part of the record established by the zoning board of appeals for each application. The zoning board of appeals shall grant or deny the variance in writing. In its written variance decision, the zoning board of appeals must include findings of fact citing evidence of compliance with all applicable criteria imposed by this chapter or other applicable provisions of law. The zoning board of appeals may adopt the findings of fact of the staff or the applicant, they may adopt the findings of fact of the staff or applicant with modifications, or they may adopt a separate set of facts developed by the zoning board of appeals. Where the proposed action includes any combination of zoning decisions under sections 7.3.1, 7.4.1, and 7.5.3 for the same property, only one hearing shall be required.

Sec. 7.5.8. – Challenges and Appeals of decisions of the zoning board of appeals.

All challenges and appeals of ~~final~~ decisions of the zoning board of appeals under the provisions of this chapter shall be brought within 30 days of the written decision of the challenged or appealed action and shall be as follows:

- A. Only persons aggrieved by a final decision of the zoning board of appeals may seek review of such decision by petitioning the Superior Court of DeKalb County by writ of mandamus, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the zoning board of appeals is rendered.
- B. Zoning decisions as described in this chapter, being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning on the subject property or the validity of conditions or an interim zoning category other than what was requested in the superior court pursuant to its original jurisdiction over declaratory judgments pursuant to Chapter 4 of Title 9 and equity jurisdiction under Title 23. Such challenges shall be by way of a de novo review by the superior court wherein such review brings up the whole record from the local government and all competent evidence shall be admissible in the trial thereof, whether adduced in a local government process or not and employing the presumption that a governmental zoning decision is valid and can be overcome substantively by a petitioner showing by clear and convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to the public health, safety, morality, or general welfare
- C. Quasi-judicial decisions as described in this chapter and zoning decisions under subparagraph (E) of paragraph (4) of Code Section 36-66-3 shall be subject to appellate review by the superior court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided for in Title 5. Such matters shall be reviewed on the record which shall be brought to the superior court as provided in Title 5.
- D. DESIGNEE shall have authority on behalf of the Zoning Board of Appeals, without additional board or agency action, to approve or issue any form or certificate necessary to perfect the petition and is authorized to accept service of such petition on behalf of the lower judicatory board or agency, during normal business hours, at the regular offices of the local government
 - a. The officer of the quasi-judicial board or agency who shall have authority, without additional board or agency action, to approve or issue any form or certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower

judicatory board or agency, during normal business hours, at the regular offices of the local government

- E. DESIGNEE of [The elected official] may be served with an appeal of a decision by the Zoning Board of Appeals and shall have authority to accept such service during normal business hours, at the regular offices of the local government.

Sec. 7.6.7. - Criteria used by the director of planning in deciding administrative variances and administrative waivers.

- A. The director of planning shall grant or deny applications for administrative variances from the strict application of the regulations identified in section 7.6.5.A., where the strict application of the associated regulations would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the director shall apply the criteria specified in sections 7.5.3 and 7.5.4 to the facts of each application.
- B. The director of planning shall consider administrative waivers to amend, reduce, or waive architectural, design, or building material standards found in article 5, building form standards using the following criteria:
 - 1. Whether the proposed change(s) in appearance will have a substantial adverse effect on the design standards set out in article 5.
 - 2. The extent to which the proposed project complies with the design standard in terms of architectural style, general design arrangement, texture and color (non-painted surfaces) material of architectural features, and other site features.
 - 3. The extent to which the proposal is compatible with other structures in the area.
- C. When issuing a written decision on an administrative waiver request, the director of planning may make a decision to approve the waiver, approve with conditions, or deny the waiver, and shall cite the grounds relied upon in reaching the decision. [Copies of these standards and factors shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the chief executive officer and the board of commissioners.](#)

([Ord. No. 15-06](#), 8-25-2015)

Sec. 7.6.8. - Persons entitled to appeal to the zoning board of appeals.

Any person identified in section 7.5.2.B. shall have the right to appeal by a decision of the director of planning related to administrative permits, variances or waivers to the zoning board of appeals. Such petition shall be filed within thirty (30) days after the decision of the director is rendered.

([Ord. No. 15-06](#), 8-25-2015)

Sec. 9.1.3 – Defined Terms.

Quasi-judicial: an officer, board, or agency appointed by a local government to exercise delegated, quasi-judicial zoning powers including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, special administrative permits, special exceptions, conditional use permits, or other similar permits not numerated herein as a zoning decision, pursuant to standards for the exercise of such quasi-judicial authority adopted by a local government.

Zoning: the power of local governments to provide within their respective territorial boundaries for the districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

Zoning decision: Final legislative action by a local government which results in:

1. The adoption *or repeal* of a zoning ordinance;
2. The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
3. The adoption *or denial* of any amendment to a zoning ordinance ~~which rezones the~~ *to rezone* property from one zoning classification to another;
- ~~4. The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality;~~
- ~~4. 5-~~ The grant *or denial* of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by Georgia law; *or*
- ~~5. 6-~~ Denial of the aforementioned ordinances or permits.

Sec. 4.2.41 – Personal care homes and child caring institutions.

A. Personal care homes, general requirements.

1. Each personal care home must obtain all license(s) and/or permit(s) required by the State of Georgia in order to operate. Each personal care home licensed and/or permitted by the State of Georgia must display its state-issued license(s) and/or permit(s) in plain view, visible from the front doorway of the facility.
2. No personal care home may display any exterior signage that violates the sign ordinance in chapter 21 of the Code or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.
3. Personal care homes may apply for an FHA Accommodation Variance as provided for in section 7.5.9 of this chapter.

4. Any personal care home classified by the State of Georgia as a drug treatment facility or other facility for treatment of drug dependency, in part or wholly, shall be subject to a public hearing consistent with O.C.G.A. §36-66-4f.

Sec. 4.2.48 – Shelters for homeless or battered persons and transitional housing facilities.

A. No shelter for homeless or battered persons and no transitional housing facility shall be designed to exceed a capacity of twenty (20) persons, unless accessory to a place of worship.

B. Prior to issuance of any approvals for operation of a shelter for homeless or battered person or transitional housing facility, the applicant for such approval shall disclose, in writing, the capacity and floor plan of the facility.

C. Such shelters shall comply with all applicable DeKalb County building, housing, and fire codes and shall fully comply with O.C.G.A. §§ 30-3-1, et seq. before a certificate of occupancy can be issued. The loss of any state license or permit shall result in an automatic revocation of that county issued permit or license.

D. There shall be no use on the property other than the shelter, unless accessory to place of worship.

E. No new shelter or transitional housing facility shall be located within one thousand (1,000) feet of an existing shelter or transitional housing facility.

F. Shelters for homeless or battered persons and transitional housing facilities may apply for an FHA Accommodation Variance as provided for in section 7.5.9 if the residents would constitute disabled persons under the FHA.

G. Any personal care home classified by the State of Georgia as a drug treatment facility or other facility for treatment of drug dependency, in part or wholly, shall be subject to a public hearing consistent with O.C.G.A. §36-66-4f.