

ARTICLE IV

ZONING ADMINISTRATION

Section 40. Duties and Powers of the Zoning Enforcement Officer.

The Zoning Enforcement Officer shall be the Building Inspector of the City of Perry, Georgia, or any public official of the said City designated by the Mayor and Council of the said City if there is no Building Inspector whose duties and powers are as follows:

40.1. The enforcement of the provisions of this Ordinance shall be the responsibility of the Zoning Enforcement Officer. The Zoning Enforcement Officer may cause any building, structure, place, or premises to be inspected and examined and to order the remedying of any condition found to exist in violation of any provision of this Ordinance. Upon failure of any person, firm or corporation to immediately remedy any such violation, the Zoning Enforcement Officer may initiate proceedings pursuant to Article XVII of this ordinance. In the case of repeated violations of this resolution by any person, firm, or corporation, the Zoning Enforcement Officer may initiate such proceedings without first providing such person, firm or corporation an opportunity to remedy the situation.

40.2. The Zoning Enforcement Officer shall not have authority to take final action on applications or matters involving variances, on-conforming uses, or other exceptions, which this Ordinance has reserved for public hearings before the Commission and/or the Council.

40.3. The Zoning Enforcement Officer may approve plats of proposed subdivisions where said plat is in conformity with Article XII and XIII of this Ordinance.

40.4. The Zoning Enforcement Officer shall keep records of all and any permits, Certificates of Occupancy issued, and all submitted subdivision plats, with notations of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be made as a public record.

Section 41. Permits and Certificates.

Permits and Certificates shall be issued in accordance with the following provisions:

41.1. Zoning Compliance Permit. The Zoning Enforcement Officer shall issue a Zoning Compliance Permit, which may be incorporated into the Building Permit issued under the Building Code adopted by the Council, for any permitted use of land or structural alteration provided such proposed use of land or structure, or structural alteration is in conformance with the provisions of this Ordinance.

41.1.1. An application shall be accomplished by two (2) copies of a dimensional sketch or a to-scale plan signed by the owner, or his authorized agent, to include, as a minimum the following: lot dimensions with property line monuments located thereon; shape, size, height, and location of the buildings proposed to be erected, demolished, altered, or moved, and of any building already on the lot; yard dimensions and the use of structures, including the number of dwelling units within each structure where appropriate; easements (private and public); watercourses; fences; street names and street rights-of way lines; and such other information regarding abutting property as directly affects the application.

41.1.2. Each permit shall be conspicuously posted and displayed on the premises described in the permit during the period of construction or reconstruction.

41.1.3. If the proposed excavation, filling, construction, or movement set forth in said sketch or plan are in conformity with the provision of this Ordinance, and other appropriate codes and ordinances of the Council then in effect, the Zoning Enforcement Officer shall sign and return one (1) copy of the sketch plan to the applicant and shall issue a Zoning Compliance Permit. The Zoning Enforcement Officer shall retain one (1) copy of the Zoning Compliance Permit and one (1) copy of the sketch or plan for his records.

41.1.4. If the sketch or plan submitted describes work which does not conform to the requirements of this Ordinance, the Zoning Enforcement Officer shall not issue a Zoning Compliance Permit, but shall return one (1) copy of the sketch or plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this Ordinance with which the submitted sketch plan does not comply. The Zoning Enforcement Officer shall retain one (1) copy of the sketch plan and two (2) copies of the refusal.

41.1.5. Any Zoning Compliance Permit shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the certificate or permit was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year.

41.2. Certificate of Occupancy. Certificates of Occupancy shall be issued by the Zoning Enforcement Officer in accordance with the following provisions:

41.2.1. Certificate of Occupancy Required. A Certificate of Occupancy shall be required in advance of occupancy or use of:

- (1) A building hereafter erected;

- (2) A building hereafter altered so as to affect height, or side, front or rear yards;
- (3) A change of type of occupancy or use of any building on premises.

41.2.2. Issuance of Certificate of Occupancy. The Zoning Enforcement Officer shall sign and issue a Certificate of Occupancy if the proposed use of land or building, as stated on the application for such certificate and signed thereto by the owner or his appointed agent, is found to conform to the applicable provisions of this Ordinance and the building, as finally constructed, complies with the sketch or plan submitted for the Zoning Compliance Permit.

41.2.3. Denial of Certificate of Occupancy. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance, or unless the building, as finally constructed, complies with the sketch plan upon which the Zoning Compliance Permit was issued.

A Certificate of Occupancy shall not be issued for any project, excluding single and two family dwellings, unless all aspects of construction, including, but not limited to, landscaping, building construction, stormwater management, and paving are inspected and found to conform to plans submitted to the Zoning Enforcement Officer. *Section 41.2.3 – Revised 10-07-08*

Section 42. Establishment of Planning Commission.

42.1. Membership.

42.1.1. The Planning Commission shall consist of seven members who shall be residents of the City of Perry, Georgia. The Mayor and each Councilperson shall appoint one (1) member to the Planning Commission at the first meeting in January at the beginning of the Mayor or Councilperson's term of office.
(Rev. 02.01.11)

42.1.2. The term of office of the member of the Planning Commission shall run concurrently with the term of the Mayor or Councilperson by whom the Planning Commissioner was appointed. *(Rev. 02.01.11)*

42.1.3. Any vacancy in membership shall be filled for the unexpired term by the Mayor or Council member who appointed the vacating member. The Mayor or Council shall have the authority to remove any member for cause, on written charges, after a public hearing.

42.1.4. All members may receive compensation as determined by Mayor and Council.

42.2. Organization, Rules, Staff, Finances.

42.2.1. The Commission shall elect its chairman from among its members. The term of the chairman shall be one year with eligibility for re-election.

42.2.2. The Commission shall appoint a secretary, who may be an officer or employee of the municipality.

42.2.3. The Commission shall determine its time of meeting and adopt policies and procedures which govern calling and conducting hearings. Printed copies of such policies and procedures shall be available to the general public. Such policies and procedures shall specify a minimum time period at hearings on proposed zoning decisions for presentation of data, evidence, and opinion by proponents of each zoning decision and an equal minimum time period for presentation by opponents of each proposed zoning decision, such minimum time period to be no less than ten minutes per side. Sec. 42.2.3 – Rev. 2.4.03

42.2.4. All meetings of the Commission at which official action is taken shall be open to the public and all records of the Commission shall be a public record.

42.2.5. The Commission may appoint such employees and staff as it may deem necessary for its work and may contract with state planning agencies and city planners and other consultants for such services as it may require.

42.2.6. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purposes by the Council.

Section 43. Duties and Powers of the Commission.

It shall be the function and duty of the Perry Planning Commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments and to prepare such plans for physical, social, and economic growth as will best promote public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and economy in the development of its political jurisdiction. In particular, the Commission shall have the power and the duty to:

(a) Prepare a master plan or parts thereof for the development of its political jurisdiction.

43.2. Prepare and recommend for adoption to the Mayor and Council a zoning ordinance or resolution.

43.3. Prepare and recommend for adoption to the Mayor and Council regulations for the subdivision of land within its political jurisdiction, and to administer the regulations that may be adopted.

43.4. Prepare and recommend for adoption to the Mayor and Council, a plat or plats of an official map showing the exact location of the boundary lines of existing, proposed, extended, widened or narrowed streets, public open spaces or public building sites, together with regulations to control the erection of buildings or other structures within such lines, within its political jurisdiction or a specified portion thereof.

43.5. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer, or other administrative official, in the enforcement of this ordinance.

43.6. To make recommendations to the City Council regarding Special Exceptions as described in Section 172. Sec. 43.6 – Rev.5.12.03

43.7. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. In determining whether or not a variance should be granted, the Commission shall be guided by the standards set forth in Section 47.

43.8. Unincorporated areas adjacent to municipalities may be added to and included in the area under the jurisdiction of the Perry Planning Commission for general planning and for master plan preparation and for the preparation and administration of zoning ordinances or resolutions, land subdivision regulations, and official maps, provided that the governing bodies of the county and municipality shall agree to the boundaries of such additional areas, procedures for the adoption and administration of ordinances and resolutions, and regulations applying to the area, and the manner of obtaining equitable representation of the Perry Planning Commission. Such agreement shall be formally established by appropriate official action by the governing authorities involved.

43.9. The Perry Planning Commission may make, publish, and distribute maps, plans and reports and recommendations relating to the plan ad development of its political jurisdiction to public officials and agencies, public utility companies, civic, education, professional and other organizations and citizens. It may recommend to the executive or legislative officials of its political jurisdiction programs for public improvements and the financing thereof. All public officials shall, upon request, furnish, to the Commission, within a reasonable time, such available information, as it requires for its work. The Commission, its members and employees, in the performance of its functions, may enter

upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon, provided, however, that the Commission shall be liable for any injury of damage to property resulting therefrom. In general, the Commission shall have powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction, including the authority to enter into agreements with political subdivisions and Commissions, by whatever name known, in adjacent states.

Section 44. Procedure for Requesting a Hearing Before the Commission.

Requests for a hearing before the Commission for an administrative review or a variance shall observe the following procedures:

44.1. An application must be submitted in writing to the Zoning Enforcement Officer from whom the appeal is taken and to the Commission a notice of appeal specifying the grounds thereof.

44.2. An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Enforcement Officer. Such site plan shall include, as a minimum, the following: lot dimensions and the use of structures; easements (private and public), watercourses, and if existing and proposed; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

44.3. The Zoning Enforcement Officer shall cause to have posted in a conspicuous place on the property in question one or more signs, each of which shall not be less than twelve (12) square feet in area, shall contain information as to the proposed change and the date and the time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing.

44.4. The Commission shall fix a reasonable time for the hearing of appeals or other matters referred to said Commission, give at least fifteen (15) days public notice thereof, as well as due notice to the parties in interest, and decide the same within 45 days from the date of such public hearing.

44.5. An appeal stays all legal proceeding in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Commission after the notice of appeal shall have been filed with him that, by reason for facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceeding shall not be stayed otherwise than by a restraining order which may be granted by the said Commission or by a court of record, on application, on notice to the Official from whom the appeal is taken and on due cause.

44.6. In exercising the powers granted the Commission in Section 43 of this Ordinance, the said Commission may, in conformity with the provisions of the Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the Zoning Enforcement Officer, and to that end shall have all the powers of the Zoning Enforcement Officer and may issue or direct the issuance of a Zoning Compliance Permit.

44.7. Action for a hearing before the Commission shall not be initiated on the same parcel of land more often than once every six (6) months without specific approval of the Commission.

44.8. Any petition for a hearing before the Commission may be withdrawn prior to action thereon by said Commission at the discretion of the person, firm or corporation initiating such a request upon written notice to the Secretary of said Commission.

44.9. Any person or persons severally or jointly aggrieved by any decision of the Commission may take an appeal to the Superior Court.

Section 45. Architectural and Sign Control Board of Review. (See Appendix “B” for Standards).

45.1. Creation and Composition. There is hereby created a Board of Review, which shall consist of the members of the Downtown Development Authority of the City of Perry as appointed by the Mayor and Council of the City of Perry.

45.2. Jurisdiction. The Board’s jurisdiction shall be limited to the Downtown Development District. The Board shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality of the Downtown Development District. They shall not consider detailed design, interior arrangement, or building features not subject to public view.

45.3. Development Standards. A sign, building or structure in the Downtown Development District shall only be established, constructed, reconstructed, altered, demolished, moved or maintained in a manner that will preserve the historical and architectural character of the Downtown Development District.

45.4. Certificate of Appropriateness. Application for a Certificate of Appropriateness shall be made to the office of the Zoning Enforcement Officer on forms provided therefore, obtainable from the office of the Zoning Enforcement Officer. Detailed drawings, plans or specifications shall not be required but each application shall be accompanied by such sketches, drawings, photographs, descriptions, or other information showing the proposed sign, exterior alterations, additions, changes of new construction as are reasonably required for the Board of Review. Signs allowed under Section 106.5.12 are exempt from Board review and the Certificate of Appropriateness.

45.5. Action on Application for Certificate of Appropriateness. The Zoning Enforcement Officer shall transmit the application for a Certificate of Appropriateness, together with the supporting information and materials, to the Board of Review for approval. The Board of Review shall act upon the application within 30 days after filing thereof, otherwise the application shall be deemed to be approved and a Certificate of Appropriateness shall be issued. Nothing herein shall prohibit an extension of time where mutual agreement has been made and the Board of Review may advise the applicant and make recommendations in regard to the appropriateness. If the Board of Review approves the application, a Certificate of Appropriateness shall be issued. If the Certificate of Appropriateness is issued, the application shall be processed in the same manner as applications for building permits. If the Board of Review disapproves the application, a Certificate of Appropriateness shall not be issued. The Board shall state its reasons in writing, and the Zoning Enforcement Officer shall advise the applicant and a Certificate of Appropriateness shall not be issued.

45.6. Quorum and Meetings: A majority of the members of the Board shall constitute a quorum; however, no application for approval shall be denied except by the affirmative vote of a majority of the entire Board. The Board shall meet as necessary.

45.7. Appeal Provision. Any person adversely affected by any determination made by the Architectural and Sign Control Board of Review relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the Commission.

Section 46 moved to Section 172

Section 47. Standards for Variances.

47.1. The Commission is hereby authorized to grant variances from the strict application of this resolution upon proof by a preponderance of the evidence that:

47.1.1. By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual, practical, difficulties to or exceptional or undue hardship upon the owner of such property;

47.1.2. Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions;

47.1.3. Such variance can be granted without substantial impairment to the intent, purpose, and integrity of this ordinance and/or the comprehensive plan or other master plan adopted for the property;

47.1.4. Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties. These provisions, however, shall not permit the Commission to grant any variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use on the comprehensive land development plan.

47.2. Variances cannot be granted for use of land or structures not permitted or prohibited, or to increase the density of development for a tract beyond that permitted by the zoning district.

47.3. If the hardship invoking the provisions of this section was the result of the applicant's intentional disregard or willful failure to comply with the terms of this ordinance, the Commission may refuse to grant a variance.

47.4. A variance cannot be granted to cure a violation of the ordinance unless and until the Commission finds as a fact that:

47.4.1. The violation cannot be reasonably remedied by any other means;

47.4.2. The act creating the violation was not deliberate, intentional, or the result of gross negligence;

47.4.3. Such variance can be granted without substantial impairment to the intent and purpose of this ordinance and will not be detrimental to the use and enjoyment of adjoining or neighboring properties; and

47.4.4. The violator has not previously requested and been granted a variance under the provisions of this subsection, except that this provision shall not apply if the violator can establish that such previous violation was the result of an accident or other excusable causes.