

ARTICLE XI - ADMINISTRATION AND ENFORCEMENT**Section 1100 - Enforcement****1100.1 Zoning Department**

The provisions of this Ordinance shall be administered and enforced by the City Manager through the Building and Zoning Department.

1100.2 Powers and Duties

The City Manager may authorize and empower on behalf and in the name of the Mayor and Council the necessary staff to administer and enforce the provisions of these regulations including the following powers and duties:

- (a) to receive applications, inspect premises, and issue building permits and certificates of occupancy for uses and structures which are in conformity with the provisions of this Ordinance;
- (b) to interpret provisions of this Ordinance, except as otherwise expressly provided in this Ordinance;
- (c) to keep accurate records of all permits and plats issued in accordance with the administration of this Ordinance, including, but not limited to, building permits, certificates of occupancy, variances, conditional use permits, special use permits, and subdivision plats approved in accordance with the City of Barnesville Subdivision Ordinance with notations of all special conditions involved;
- (d) to maintain current the Official Zoning Map of the City of Barnesville, and the approved Future Land Use Map of the Comprehensive Plan for Barnesville. The official maps shall be kept at City Hall.
- (e) to keep records of all violations of this Ordinance and enforcement actions taken to enforce this Ordinance.

The Zoning Department does not have the authority to take final action on applications or matters involving variances, conditional use permits, special use permits, Non-conforming uses, or other land use approvals that these regulations have reserved for action by the Planning Commission and/or the Mayor and City Council.

1100.3 Appeals of Zoning Department's Decisions

- (a) Appeal - Any person aggrieved by any decision made or an action taken by the Zoning Department may appeal such decision or action to the Mayor and City Council. Such appeal shall be taken within thirty (30) days of the date of the decision or action being appealed.
- (b) Appeal Procedures - Appeals pursuant to this section shall be filed in writing with the Zoning Department and with the Mayor and City Council. Such written appeal shall contain a notice of appeal and shall enumerate specific grounds for the appeal. The Zoning Department shall immediately transmit all documents and papers that constitute the record upon which the action or decision appealed from was taken.
- (c) Stay of Proceedings Pending Appeal - An appeal of an action or decision of the Zoning Department stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Department certifies to the Mayor and City Council after the notice of appeal has been filed with him that, based on specific facts in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by an order issued by the Mayor and City Council or by a restraining order issued by a court of competent jurisdiction.

1100.4 Violations

- (a) Complaints Regarding Violations - Whenever the Zoning Department receives a written, signed complaint alleging a violation of the provisions of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing of what actions have been or will be taken.
- (b) Remedies - If any building, structure or land is used, erected, repaired, converted or maintained in violation of this Ordinance, the Zoning Department is authorized to petition for an injunction or other appropriate legal remedy.
- (c) Suspension of Permits - In any case in which activities are undertaken in violation of this Ordinance, not in compliance with the provisions of a permit issued under the authorization of this Ordinance, or without authorization of a permit which would otherwise be required, the Zoning Department is hereby authorized to suspend or invalidate such permits, order that all unauthorized or improper work be stopped, direct correction or deficiencies, issue summonses to any court of competent jurisdiction, or take any other legal or administrative action appropriate to the severity of the violation and degree of threat to the public health, safety, and welfare.

- (d) Emergency Measures - Notwithstanding any other provisions of this Ordinance, whenever the Zoning Department determines that any violation of the Ordinance poses an imminent peril to life or property, he or she may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.
- (e) Penalties - Upon conviction of a violation of any provision of this Ordinance, the violating person or persons shall be deemed guilty of a misdemeanor.
- (f) Fines - Any person or entity convicted of violating this Ordinance shall be subject to a fine of up to \$500.00 for each violation. A violation of any provision of this Ordinance is unlawful and every day such violation continues beyond the time allowed for its correction shall be deemed a separate offense.

Section 1105 - Required Permits

In addition to all land use permits required by this Ordinance, the permits enumerated in this section are also required.

1105.1 - Building Permit

It shall be unlawful to start any work exceeding a cost of one hundred dollars (\$100.00) for the purpose of construction, alteration or removal of any building unless a building permit has been issued in accordance with the provisions of this Ordinance and the Barnesville Building Code as well as any permits required by applicable laws, regulations, and ordinances of the City.

- (a) Contents of Building Permit Application - The application for a building permit shall include the following information:
 - (1) a site plan at a suitable scale showing the shape, size, and location of the lot to be built upon;
 - (2) the location and footprint of any buildings currently existing on the lot;
 - (3) the footprint including the shape, size, height, use and location of the buildings to be erected, altered or moved onto the lot;
 - (4) the number of dwelling units the building is designed to accommodate;
 - (5) the setback line of buildings on adjoining lots;

- (6) any other information reasonably required by the Zoning Department to determine whether the proposal complies with the provisions of this Ordinance as well as with other laws, regulations, and ordinances of the City.
- (b) Standard for Issuance of Building Permit - If the application complies with the provisions of this Ordinance and with all other laws, regulations, and ordinances of the city, the building permit shall be issued by the Building Official upon the payment of the required fee as set forth by the city schedule of rates and fees, which is incorporated herein by reference.
- (c) Posting of Premises During Construction - Each required permit shall be conspicuously posted and displayed on the premises described in the permit during the period of construction or reconstruction.
- (d) Renewal, Expiration of Building Permit - If no substantial progress in construction has been made within six (6) months from the date the building permit is issued, the building permit shall become invalid. The Building Official may renew the permit one (1) time for an additional six (6) months. A renewal fee as set by the latest edition of the city schedule of rates and fees is required to be paid by the applicant before the renewed building permit is issued.

1105.2 Certificate of Occupancy

- (a) Certificate Required - A Certificate of Occupancy issued by the Building Official is required prior to the use of occupancy of:
 - (1) Any lot or change in use of any lot,
 - (2) A building erected, or change in use of an existing building, after the effective date of this Ordinance or amendment thereto.
- (b) Standard of Issuance - No Certificate of Occupancy shall be issued by the Building Official unless the lot or building or structure complies with all the provisions of this Ordinance, as well as with all other laws, regulations, and ordinances of the City. The Building Official shall keep a record of all applications for Certificates of Occupancy and all Certificates of Occupancy issued.

Section 1110 - Planning Commission**1110.1 Planning Commission Duties**

The Planning Commission is authorized to review applications, hold public hearings, and make recommendations to Mayor and City Council on applications for the following:

- (a) Conditional use permits in accordance with Section 1125 below,
- (b) Special use permits in accordance with Section 1135 below,
- (c) Variances, in accordance with Section 1130 below,
- (d) Amendments to the text of the zoning ordinance, in accordance with Section 1120 below,
- (e) Changes to the City's Official Zoning Map, in accordance with Section 1140 below.

Public hearings required for the above listed actions shall follow the procedures set forth in Section 1145 (Public Hearing Procedures) and Section 1140 (Notice Provisions) below.

1110.2 Limits on Powers of the Planning Commission

The Planning Commission powers and duties are advisory only; the Planning Commission does not have the power to amend this zoning ordinance, to rezone any land, to declare this zoning ordinance or any amendment thereto invalid, to recommend any use not permitted by this zoning ordinance, nor to allow or make any final decision on permits set forth in Section 1120.1 above.

Section 1115 - City Council

The Mayor and City Council retains authority for final approval of all zoning actions. The Council may uphold, reverse, add, delete, or modify with conditions any recommendation made by the Planning Commission.

Section 1120 - Zoning Ordinance Amendments**1120.1 Authority**

The Mayor and City Council of the City of Barnesville may from time to time amend the boundaries of the districts established on the Official Zoning Map and/or the regulations set forth in this Ordinance. Such amendments to the map or text of this Ordinance require a public hearing by the Planning Commission and Mayor and City Council. Such amendments shall follow the procedures set forth in this Article.

1120.2 Institution of Zoning Amendments

An application to amend this Ordinance or the Official Zoning Map may be initiated by:

- (a) The Barnesville City Council;
- (b) Any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner of the property involved in petition for amendment, and further provided that the petition is accompanied by a payment of a fee payable to the City of Barnesville to defray the normal cost of processing.

1120.3 Frequency of Petitions

An existing property owner or subsequent property owner shall not initiate action for a map amendment or a text amendment affecting the same or any portion of property more often than once every 6 months from the date of any previous decision rendered by the Mayor and City Council.

The same or any portion of property previously considered in a zoning amendment may not again be considered for rezoning by initiation of the Lamar County Planning Commission or the Mayor and City Council until the expiration of at least 6 months immediately following the final decision rendered on the zoning amendment by the Mayor and City Council.

1120.4 Application Procedures

- (a) Application Contents – When an amendment is initiated by anyone other than the City Council it shall include the following:
 - (1) a legal description of the subject property;
 - (2) a survey plat of the subject property, showing abutting property owners;
 - (3) a statement or indication on the survey map of the current zoning of the subject property and that of abutting properties;
 - (4) a statement of the change in zoning being requested, the proposed use of the subject property, and any special conditions made part of the rezoning request;
 - (5) a description of all existing uses and zoning of nearby property;

- (6) a description of the extent to which the property value of the subject property is diminished by the existing zoning district classification;
- (7) a description of the suitability of the subject property under the proposed zoning classification;
- (8) a description of any suitability of the subject property under the proposed zoning classification of the property;
- (9) a description of any existing use of property, including a description of all structures presently occupying the property;
- (10) the length of time the property has been vacant or unused as currently zoned;
- (11) a site plan of the property at an appropriate scale showing the proposed use, including at a minimum information on proposed improvements, including internal circulation and parking, landscaping, grading, lighting, drainage, amenities, buildings, buffers (not required for rezonings initiated by the Mayor and Council;
- (12) for any applications for P, C-1, C-2, C-3, C-4, and I districts, in addition to the above information, the site plan shall identify the maximum gross square footage of building area, the minimum square footage of landscaped area, the maximum height of any structure, the minimum square footage of parking and drive areas, and proposed number of parking spaces.
- (13) for any application for the R-1A, R-1B, R-1C, R-2, and R-3 districts, the site plan shall additionally identify the maximum number of residential dwelling units, the maximum height of any structure, the minimum square footage of landscaped area, the maximum lot coverage of building area, and the proposed number of parking spaces.
- (14) any other information as may be reasonably required by the Zoning Department.

Note that on all rezoning applications a revised site plan to be approved at a later date by the Mayor and Council may be required.

- (b) Filing Fee - All applications other than those initiated by the Mayor and City Council shall be accompanied by payment of a fee to be established by the City Council to cover administrative and advertising costs. Such fee shall be deposited with the City Clerk.

- (c) Campaign Contribution Disclosure Report - Applicants for rezonings who have made campaign contributions aggregating \$250.00 or more to a member of the Lamar County Planning Commission or Barnesville City Council within two years immediately preceding the filing of that application must file a disclosure report within ten (10) days after the application is filed in accordance with Section 1150 (Disclosure of Campaign Contributions) of this Article.
- (d) Withdrawal of Amendment Application - Any petition for an amendment to this Ordinance may be withdrawn at any time at the discretion of the person of agency initiating such a request, upon written notice to the Zoning Department, prior to the public hearing before the Mayor and Council. If the petition is withdrawn prior to submission of the legal advertisement for a public hearing to the local newspaper, the application fee shall be refunded. If the application is withdrawn after the submission of the legal advertisement for a public hearing to the local newspaper, the application fee is forfeited by the petitioner.

1120.5 Notice Requirements

- (a) Posting of Property - When an amendment is initiated by anyone other than the City Council, no less than fifteen (15) days and no more than 45 days before the public hearing a sign shall be placed in a conspicuous place on the property proposed for the rezoning.
- (b) Published Notice - At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Planning Commission, the City Clerk shall advertise the Planning Commission's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article. At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Mayor and City Council, the City Clerk shall advertise the City Council's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article.

1120.6 Planning Commission Hearing and Recommendation

- (a) Planning Commission Hearing - All proposed amendments to the Zoning Ordinance or Official Zoning Map shall be reviewed by the Planning Commission for a recommendation. The Planning Commission shall consider the Standards for Zoning Amendment Decisions set forth in Section 1120.8 below prior to making its recommendation.
- (b) Hearing Procedures - The Planning Commission shall conduct public hearings on rezonings in accordance with the procedures set forth in Section 1145 (Public Hearing Procedures) in this Article.

- (c) Planning Commission Recommendations - After completing its hearing on the proposed amendment, the Planning Commission shall submit a recommended action to the Mayor and Council. The Planning Commission may decide not to make a recommendation, or it may make a recommendation to the Council, including the following: approval, denial, deferral, withdrawal, reduction of the land area for which the application is made, change or the zoning district requested, or imposition of conditions. If no recommendation is made by the Planning Commission, then it shall report to the Council that it makes no recommendation on the application. The Planning Commission shall also submit to the Mayor and City Council any additional reports it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Mayor and Council.
- (1) Time Limit to Submit Recommendation - The Planning Commission's recommendations shall be submitted to the Mayor and Council prior to the public hearing held by the Mayor and Council. If, however, the Planning Commission fails to submit a recommendation prior to the City Council's public hearing, the Planning Commission shall be deemed to have recommended approval of the proposed amendment.

1120.7 City Council Hearing and Decision

- (a) Public Hearing Requirement - Before taking action on a rezoning application, the City Council shall hold a hearing in accordance with procedures set forth in Section 1145 (Public Hearings Procedures) of this Article. Notice of such hearing shall be published in accordance with Section 1120.5(b) above.
- (b) City Council Decision - The City Council's decision shall consider the Standards for Zoning Amendment Decisions set forth in Section 1120.8 below in reaching its decision. At conclusion of public hearing, the Council may in its legislative discretion, approve or deny the application, defer a decision until a specified meeting date, or allow a withdrawal of the application by the applicant, if requested.
- (1) Voting Requirements - The decision of the Council is by a majority of the council members present. The mayor will vote only in the case of a tie vote. In such case, the Mayor votes in order to resolve the question. The vote will be taken in public and announced to those present.

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- (c) Defeat of Proposed Amendment - If the zoning decision of the Mayor and City Council is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated by the Mayor and Council, then the same property may not again be considered for rezoning until the expiration of a least six (6) months immediately following the defeat of the rezoning by the Mayor and Council.
- (d) Appeal of City Council Decision - Any person, firm or corporation aggrieved by a decision of the Council shall have the right of appeal as provided by law if such appeal is filed within thirty (30) days of the decision of the Council.

1120.8 Standards for Zoning Amendment Decisions

The Mayor and Council recognize that proper exercise of its zoning powers requires considering and balancing of the interests in promoting the public health, safety, morality and general welfare against the right to unrestricted use of property. To ensure a proper balancing of the such interests, the Planning Commission, in making its recommendation, and the Mayor and Council, in making its decision on any rezoning application shall consider the following standards governing the exercise of zoning power:

- (a) The location of the subject property;
- (b) The present use and zoning classification of the property;
- (c) The proposed use and zoning classification of the subject property;
- (d) The suitability of the subject property for the zoned purposes as currently zoned;
- (e) The existing land uses and zoning classification of nearby property;
- (f) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (g) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- (h) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- (i) 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, schools, or police and fire protection;
- (j) Whether the zoning proposal is in conformity with the policy intent of the adopted Comprehensive Plan;

- (k) 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.

Section 1125 - Conditional Uses

Certain uses are not generally allowed in a particular zoning district, or in any other zoning districts, because the special characteristics of such uses create impacts on surrounding areas. Such uses may, however, be allowed under special conditions. The granting of a conditional use permit does not constitute a permanent change in zoning or use. The conditional use may be forfeited if it does not meet the criteria provided in the following section. Generally, a conditional use shall be compatible with the applicable zoning district under special conditions. Uses enumerated in the district regulations as conditional uses must receive approval from the City Council after a public hearing by the Planning Commission and City Council in accordance with the provisions of this Article.

1125.1 Application Procedures

- (a) Application Contents - Each application for a Conditional Use Permit shall include the following information:
- (1) Name and address of applicant;
 - (2) Name and address of the owner or operator of the proposed structure or use, if different from the applicant;
 - (3) Nature of the proposed use, including type of activity proposed, manner of operation, number of occupants or employees, and similar matters;
 - (4) Location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
 - (5) Area and dimensions of the site for the proposed structure(s) or use(s);
 - (6) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
 - (7) Height and setbacks of the proposed residential units, if any;
 - (8) Location and number of proposed parking/loading spaces and access way;
 - (9) Identification and location of all existing or proposed utilities, whether public or private; and/or

- (10) Any pertinent information that the Planning Commission and/or City Council may require.
- (b) Filing Fee - All applications for Conditional Use Permits shall be accompanied by the payment of a fee to be established by the City Council to cover administrative and advertising costs. Such fee shall be deposited with the City Clerk.
- (c) Campaign Contribution Disclosure Report - Applicants for Conditional Use Permits who have made campaign contributions aggregating \$250.00 or more to a member of the Lamar County Planning Commission or Barnesville City Council within two years immediately preceding the filing of that application must file a disclosure report within ten (10) days after the application is filed in accordance with section 1150 (Disclosure of Campaign Contributions) of this Article.

1125.2 Notice Procedures

- (a) Posting of Property - The applicant for a Conditional Use Permit shall at his expense cause to be erected, no less than fifteen (15) days and no more than 45 days before the public hearing held by the Planning Commission, a sign in a conspicuous place on the property proposed for the Conditional Use Permit. Such notice shall comply with the provisions set forth in Section 1140.2 (Notice Provisions) of this Article.
- (b) Published Notice - At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Planning Commission, the City Clerk shall advertise the Planning Commission's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article. At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Mayor and City Council, the City Clerk shall advertise the City Council's public hearing in accordance with Section 1149.1 (Notice Provisions) of this Article.

1125.3 Planning Commission Hearing and Recommendation

- (a) Planning Commission Hearing - All proposed Conditional Use Permits shall be reviewed by the Planning Commission for a recommendation. The Planning Commission shall consider the Conditional Use Standards set forth in Section 1125.5 below prior to making its recommendation.
- (b) Hearing Procedures - The Planning Commission shall conduct public hearings on Conditional Use Permits in accordance with the procedures set forth in Section 1145 (Public Hearing Procedures) in Article.

- (c) Planning Commission Recommendation - After completing its hearing on the proposed Conditional Use Permit, the Planning Commission shall submit a recommended action to the Mayor and Council. The Planning Commission may decide not to make a recommendation, or it may make a recommendation to the Council, including the following: approval, denial, deferral, withdrawal, reduction of the land area for which the application is made, or imposition of additional conditions. If no recommendation is made by the Planning Commission, then it shall report to the Council that it makes no recommendation on the application. The Planning Commission shall also submit to the Mayor and City Council and additional reports it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Mayor and Council.
- (1) Time Limit to Submit Recommendation - The Planning Commission's recommendations shall be submitted to the Mayor and Council prior to the public hearing held by the Mayor and Council. If, however, the Planning Commission fails to submit a recommendation prior to the City Council's public hearing within sixty (60) days after the Planning Commission's hearing, which ever comes first, the Planning Commission shall be deemed to have recommended approval of the proposed application.

1125.4 City Council Hearing and Decision

- (a) Public Hearing Requirement - Before taking action on a Conditional Use Permit application, the City Council shall hold a hearing in accordance with procedures set forth in Section 1145 (Public Hearings Procedures) of this Article. Notice of such hearings shall be published in accordance with Section 1125.2(b) above.
- (b) City Council Decision - The City Council's decision shall consider the Conditional Use Standards set forth in Section 1125.5 below in reaching its decision. At conclusion of public hearing, the Council may in its legislative discretion, approve or deny the application, defer a decision until a specified meeting date, delete or impose additional conditions, allow a withdrawal of the application by the applicant, if requested.
- (1) Voting Requirements - The decision of the Council is by a majority of the council members present. The mayor will vote only in the case of tie vote. In such case, the Mayor votes in order to resolve the question. The vote will be taken in public and announced to those present.

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- (c) Appeal of City Council Decision - Any person, firm or corporation aggrieved by a decision of the Council shall have the right of appeal as provided by law if such appeal is filed within thirty (30) days of the decision of the Council.

1125.5 Standards for Conditional Use Decisions

A Conditional Use may be approved where it is determined based on the evidence presented at the public hearing that:

- (a) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood;
- (b) The proposed use will not have a adverse affect on health, safety, and general welfare of residents or workers in the area;
- (c) The proposed use as designed will minimize impacts on traffic as well as other adverse effects on the surrounding neighborhood;
- (d) The standards set forth in Article VIII of this Ordinance for the particular proposed use have been met;
- (e) The proposed use is consistent with the city's adopted Comprehensive Plan;
- (f) A rezoning to a more intensive zoning district, which contains that use as a permitted use by right, would not be appropriate for the property;
- (g) The location and character of the conditional use is compatible with the community development pattern and is consistent with the needs of the neighborhood;
- (h) The proposed conditional use will not be injurious to the use and enjoyment of the natural environment or of the other property in the immediate vicinity, or diminish and impair property values within the surrounding neighborhood;
- (i) The conditional use will not increase local or state expenditures in relation to the cost of servicing or maintaining neighboring properties.

Section 1130 - Variances

The City Council is authorized upon request in specific cases to approve such variance 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 provision of the Ordinance will in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The

existence of a non-conforming use of neighboring land, building, or structures in the same district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance.

1130.1 Use Variance Prohibited

No variance may be granted that would permit a use of land, building, or structures, which is not permitted by right or as a conditional use in the district in which the subject property is located.

1130.2 Application Procedures

- (a) Application Contents - Each application for a variance shall include the following information:
 - (1) Name and address of applicant;
 - (2) Location of structure and/or use for which the variance is sought;
 - (3) Relationship of structure and/or use to existing structures/uses on adjacent lots;
 - (4) Specific sections of this Ordinance containing regulations which would cause hardship;
 - (5) Characteristics of property that prevent compliance with this Ordinance;
 - (6) The particular hardship that would result with strict application of the Ordinance;
 - (7) Any other pertinent information the Zoning Department may require.
- (b) Filing Fee - All applications for Variances shall be accompanied by the payment of a fee to be established by the City Council to cover administrative and advertising costs. Such fee shall be deposited with the City Clerk.
- (c) Campaign Contribution Disclosure Report - Applicants for Variances who have made campaign contributions aggregating \$250.00 or more to a member of the Lamar County Planning Commission or Barnesville City Council within two years immediately preceding the filing of that application must file a disclosure report within ten (10) days after the application is filed in accordance with Section 1150 (Disclosure of Campaign Contributions).

1130.3 Notice Procedures

- (a) Posting of Property - The applicant for a variance shall at his expense cause to be erected, no less than fifteen (15) days and no more than 45 days before the public hearing held by the Planning Commission, a sign in a conspicuous place on the property proposed for the variance. Such notice shall comply with the provisions set forth in Section 1140.2 (Notice Provisions) of this Article.
- (b) Published Notice - At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Planning Commission, Building Official shall advertise the Planning Commission's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article. At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Mayor and City Council, the City Clerk shall advertise the City Council's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article.

1130.4 Planning Commission Hearing and Recommendations

- (a) Planning Commission Hearing - All proposed variances shall be reviewed by the Planning Commission for a recommendation. The Planning Commission shall consider the Standards for Issuance of a Variance set forth in Section 1130.6 below prior to making its recommendation.
- (b) Hearing Procedures - The Planning Commission shall conduct public hearings on requested variances in accordance with the procedures set forth in Section 1145 (Public Hearing Procedures) in this Article.
- (c) Planning Commission Recommendation - After completing its hearing on the proposed variance, the Planning Commission shall submit a recommended action to the Mayor and Council. The Planning Commission may decide not to make a recommendation, or it may make a recommendation to the Council including the following: approval, denial, deferral, withdrawal, reduction of the land area for which the application is made. If no recommendation is made by the Planning Commission, then it shall report to the Council that it makes no recommendation on the application. The Planning Commission shall also submit to the Mayor and City Council any additional reports it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Mayor and Council.
- (1) Time Limit to Submit Recommendation - The Planning Commission's recommendations shall be submitted to the Mayor and Council prior to the public hearing held by the Mayor and Council. If, however, the Planning Commission fails to submit a recommendation prior to the City Council's public hearing or within sixty (60) days after the Planning Commission's

hearing, which ever comes first, the Planning Commission shall be deemed to have recommended approval of the proposed application.

1130.5 City Council Hearing and Decision

- (a) Public Hearing Requirement - Before taking action on a variance application, the City Council shall hold a hearing in accordance with procedures set forth in Section 1145 (Public Hearings Procedures) of this Article. Notice of such hearing shall be published in accordance with Section 1130.3(b) above.
- (b) City Council Decision - The City Council's decision shall consider the Standards for Issuance of a Variance set forth in Section 1130.6 below in reaching its decision. At conclusion of public hearing, the Council may in its legislative discretion, approve or deny the application, defer a decision until a specified meeting date, or allow a withdrawal of the application by the applicant, if requested.
 - (1) Voting Requirements - The decision of the Council is by a majority of the council members present. The mayor will vote only in the case of a tie vote. In such case, the Mayor votes in order to resolve the question. The vote will be taken in public and announced to those present.
- (c) Appeal of City Council Decision - Any person, firm or corporation aggrieved by a decision of the Council shall have the right of appeal as provided by law if such appeal is filed within thirty (30) days of the decision for the Council.

1130.6 Standards for Approval of a Variance

A variance may be approved where it is determined based on the evidence presented at the public hearing that all of the following conditions exist:

- (a) There are extraordinary and exceptional conditions pertaining to the particular property because of size, shape, topography of the subject property;
- (b) The literal application of this Ordinance would create an unnecessary hardship;
- (c) Relief, if granted, would not cause substantial detriment to public good or impair the purposes and intent of this Ordinance;
- (d) Granting the variance requested will not confer upon the property of the applicant any special privilege that is denied to other properties of the district in which the applicant's is located;

- (e) The special circumstances surrounding the request for the variance are not the result of acts by the applicant;
- (f) The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
- (g) The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Section 1135 - Special Use Permits

Uses that are determined to be unclassified uses in accordance with Article VI, Section 675 of this Ordinance may apply for a Special Use Permit under the provisions of this Section.

1135.1 Uses Permitted

The approval of a Special Use Permit authorizes only the uses specified in the approved Special User Permit to be conducted on the property for which the application is submitted. The use must be conducted in accordance with the conditions approved as part of the Special Use Permit.

1135.2 Application Procedures

- (a) **Application Contents** - Each application for a variance shall include the following information:
 - (1) Name and address of applicant;
 - (2) Description of property under consideration for Special Use Permit;
 - (3) Proposed use of the property;
 - (4) Survey plat of property showing abutting property owners;
 - (5) Zoning of abutting property;
 - (6) Zoning of subject property;
 - (7) Any other pertinent information the Zoning Department may require.

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- (b) Filing Fee - All applications for Special Use Permits shall be accompanied by the payment of a fee to be established by the City Council to cover administrative and advertising costs. Such fee shall be deposited with the City Clerk.
- (c) Campaign Contribution Disclosure Report - Applicants for Special Use Permits who have made campaign contributions aggregating \$250.00 or more to a member of the Lamar County Planning Commission or Barnesville City Council within two years immediately preceding the filing of that application must file a disclosure reported within ten (10) days after the application is filed in accordance with Section 1150 (Disclosure of Campaign Contributions).

1135.3 Notice Procedures

- (a) Posting of Property - The applicant for a Special Use Permit shall at his expense cause to be erected, no less than fifteen (15) days and no more than 45 days before the public hearing held by the Planning Commission, a sign in a conspicuous place on the property proposed for the Special Use Permit. Such notice shall comply with the provisions set forth in Section 140.2 (Notice Provisions) of the Article.
- (b) Published Notice - At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Planning Commission, the Building Official shall advertise the Planning Commission's public hearing in accordance with Section 1140.1 (Notice Provisions) of this Article. At least fifteen (15) days and no more than forty-five (45) days prior to the date of the public hearing by the Mayor and City Council, the City Clerk shall advertise the City Council's public hearing in accordance with Section 1140.1 (Notice Provisions) of the Article.

1135.4 Planning Commission Hearing and Recommendations

- (a) Planning Commission Hearing - All proposed Special Use Permits shall be reviewed by the Planning Commission for a recommendation. The Planning Commission shall consider the Standards for Issuance of a Special User Permit forth in Section 1135.6 below prior to making its recommendation.
- (b) Hearing Procedures - The Planning Commission shall conduct public hearings on requested Special Use Permits in accordance with the procedures set forth in Section 1145 (Public Hearing Procedures) in this Article.

APPROVED
Rec. by: DZ Date: 1-12-04

- (c) Planning Commission Recommendation - After completing its hearing on the proposed Special Use Permit, the Planning Commission shall submit a recommended action to the Mayor and Council. The Planning Commission may decide not to make a recommendation, or it may make a recommendation to the Council including following: approval, denial, imposition of conditions on the permit, deferral, withdrawal, reduction of the land area for which the application is made. If no recommendation is made by the Planning Commission, then it shall report to the Council that it makes no recommendation on the application. The Planning Commission shall also submit to the Mayor and City Council any additional reports it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Mayor and Council.
- (1) Time Limit to Submit Recommendation - The Planning Commission's recommendations shall be submitted to the Mayor and Council prior to the public hearing held by the Mayor and Council. If, however, the Planning Commission fails to submit a recommendation prior to the City Council's public hearing or within sixty (60) days after the Planning Commission's hearing, whichever ever comes first, the Planning Commission shall be deemed to have recommended approval of the proposed application.

1135.5 City Council Hearing and Decision

- (a) Public Hearing Requirement - Before taking action on a Special Use Permit application, the City Council shall hold a hearing in accordance with procedures set forth in Section 1145 (Public Hearings Procedures) of this Article. Notice of such hearing shall be published in accordance with Section 1135.3(b) above.
- (b) City Council Decision - The City Council's decision shall consider the Standards for Issuance of a Special Use Permit set forth in Section 1135.6 below in reaching its decision. At conclusion of public hearing, the Council may in its legislative discretion, approve or deny the application, defer a decision until a specified meeting date, impose additional conditions on the application to mitigate adverse impacts, or allow a withdrawal of the application by the applicant, if requested.
- (c) Appeal of City Council Decision - Any person, firm or corporation aggrieved by a decision of the Council shall have the right of appeal as provided by law if such appeal is filed within thirty (30) days of the decision of the Council.

APPROVED
Rec. by: DZ Date: 1-12-04

1135.6 Standards for Approval of Special Use Permit

In deciding whether or not to approve a Special Use Permit, the Planning Commission and City Council shall consider the following:

- (a) buffer areas proposed for the use;
- (b) fencing and screening proposed for the use by the applicant;
- (c) the potential for negative impacts such as traffic, noise, erosion, air or water pollutants, and proposed measures designed to mitigate those impacts;
- (d) any increased potential for accidents or danger to public health, safety, or welfare;
- (e) the proposed hours of operation;
- (f) lot area requirements;
- (g) balancing the benefits and need of the land use with possible negative impacts and depreciating effects or damage to neighboring properties.

Section 1140 - Notice Provisions

Whenever a public hearing is required to be held under this Ordinance, posted and published notice is required to be given as provided for in this section.

1140.1 Published Notice

- (a) Planning Commission Hearing - A Public Notice shall be published in the official paper of the City of Barnesville or in a newspaper of general circulation in the municipality at least 15 days and not more than 45 days prior to the scheduled meeting of the Lamar County Planning Commission, stating that the Planning Commission will hold a hearing and stating the purpose, time and date, and location of the hearing, the location of the property being considered for the zoning action, the present zoning classification of the subject property, and a brief description of the nature of the zoning action proposed for the subject property, including the proposed zoning classification in the case of rezoning applications.
- (b) City Council Hearing - A Public Notice shall be published in the official paper of the City of Barnesville or in a newspaper of general circulation in the municipality at least 15 days and not more than 45 days prior to the scheduled meeting of the Mayor and City Council, stating that the Mayor and Council will hold a hearing and stating the purpose, time and date, and location of the hearing, the location of the property being considered for

the zoning action, the present zoning classification of the subject property, and a brief description of the nature of the zoning action proposed for the subject property, including the proposed zoning classification in the case of rezoning applications.

- (c) Notice for Properties to be Annexed - Notice for hearings by the Planning Commission and the City Council regarding the zoning of property to be annexed into the City of Barnesville pursuant to Article III, Section 330 of this Ordinance, shall be published in a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located and shall comply with Section 1140.1(a) and (b) above.

1140.2 Notice Posted on Property

Upon the filing of an application for an amendment to this zoning Ordinance, or other zoning approval required by this Ordinance to be based on a hearing. There shall be erected in a conspicuous place on subject property, no less than fifteen (15) days and no more than forty-five (45) days prior to the scheduled hearing, one (1) or more sign, each of which will shall be not less than 9 square feet in area, and each of which shall contain information as to the proposed change and the date and time of the public hearing before the City Council and Planning Commission. No such public hearing shall take place until said signs have been posted for at least 15 days. At a minimum, the sign shall read as follows:

NOTICE TO PUBLIC

An application has been filed regarding this property requesting [FILL IN THE ZONING ACTION OR APPROVAL BEING REQUESTED, for example, a rezoning from (insert present zone) to (insert zone requested)].

A public hearing will be held by the Lamar County Planning Commission to review and consider a recommendation to the City of Barnesville Council in the Lamar County Courthouse, Thomaston St., Barnesville, Georgia, on (DATE), at (TIME).

The Barnesville Mayor and City Council will hold a public hearing and a decision will be made at Barnesville Courtroom at 100 Mill St., Barnesville, Georgia, on (DATE), at (TIME). All persons having an interest in this application should be at one or both of these public hearings to voice their interest.

Section 1145 - Public Hearing Procedures

Whenever a public hearing is required by this Ordinance or by state law to be held by the Planning Commission or City Council prior to proposed zoning amendment or other zoning action or approval, such hearing, whether conducted by the Planning Commission or the City Council, shall be governed by the provisions set forth in this Section, which is adopted pursuant to O.C.G.A. Section 36-66-5(a), as amended.

1145.1 Administrative Record

Minutes of the meeting will be taken by secretary to Lamar County Planning Commission or City Clerk. A complete transcript of a public hearing may be requested and will be available at expense of party making request. Copies of the Zoning Department's findings and recommendations as well as the Planning Commission's recommendation and report shall be available upon request to interested members of the public at the hearing held before the Mayor and Council.

1145.2 Presiding Officer to Call the Meeting to Order

The public hearing shall be called to order by the presiding officer.

1145.3 Staff Report

The Zoning Department, or his designee, shall present on the application, including the following:

- (a) the location of the property that is the subject of the application;
- (b) the present zoning classification of the subject property;
- (c) a description of the requested zoning permit or approval, including the zoning classification proposed for the property if the application is for a rezoning;
- (d) the written record of the report or investigation prepared by the Zoning Department and the recommendations proposed by the Zoning Department;
- (e) for hearings before the Mayor and City Council, the recommendation of the Lamar County Planning Commission and any additional information designated by the Planning Commission to be presented to the Mayor and Council; and
- (f) any additional information considered to be relevant to application by the Zoning Department.

1145.4 Applicant's Initial Presentation

The applicant or applicant's agent shall present and explain his application after the staff report is given in accordance with Section 1145.3 above. The applicant will be allowed a total of 10 minutes within which to make his initial presentation of data, evidence, and opinion.

1145.5 Other Interested Parties

At the conclusion of the applicant's presentation pursuant to Section 1145.4 above, interested parties as recognized by the Mayor shall be afforded an opportunity to address the proposed application by standing before the Mayor and Council or Planning Commission and stating their name, address, and interest, as well as any comments on the pending application. Interested parties other than the applicant who are proponents of the application are allowed a total of ten (10) minutes as a group to offer data, evidence, and opinion in support of the pending application. Interested parties opposing an application are allowed a total of twenty-five (25) minutes as a group to address their opposition to the application. It is suggested that proponents, other than the applicant, and opponents of the application each obtain one spokesperson to present their views.

1145.6 Applicant's Summary

The applicant shall have an opportunity for summary remarks concerning the pending application, with a five (5) minute time limit, at which time the presiding officer shall close the public hearing.

1145.7 Deliberation by the Planning Commission or City Council

At the close of the public hearing, the Planning Commission or City Council shall deliberate on the proposal and take action on the application.

1145.8 Speakers' Conduct

During the course of a public hearing on a zoning action, each speaker shall speak only to the merits of the pending application and shall address his remarks only to the members of the Planning Commission or the Mayor and City Council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the pending application. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.

APPROVED
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Section - 1150 Disclosure of Campaign Contributions**1150.1 Disclosures Required for Applicants**

When any applicant for a rezoning or other zoning action or approval has made, within two (2) years immediately preceding the filing of that application, campaign contributions aggregating \$250.00 or more to an official of the City of Barnesville or to a member of the Lamar County Planning Commission, it shall be the duty of the applicant and any attorney representing the applicant to file a disclosure report with the City within ten (10) days after the application is filed. Such disclosure report shall include the following information:

- (a) The name and official position of the official of the City of Barnesville or Lamar County Planning Commission to whom the campaign contribution was made; and
- (b) The dollar amount and description of each campaign contribution made by the applicant to the official during the two (2) years immediately preceding the filing of the application and the date of each such contribution.

1150.2 Disclosures Required for Opponents of Rezoning Actions

When any opponent of a rezoning or other zoning action or approval has made, within two years immediately preceding the filing of the application being opposed campaign contributions aggregating \$250.00 or more to official of the City of Barnesville or to a member of the Lamar County Planning Commission, it shall be the duty of the opponent to file a disclosure report with the City at least five (5) calendar days prior to the first hearing held by the Planning Commission. Such disclosure report shall include the following information:

- (a) The name and official position of the official of the City of Barnesville or the Lamar County Planning Commission to whom the campaign contribution was made; and
- (b) The dollar amount and description of each campaign contribution made by the applicant to the official during the two (2) years immediately preceding the filing of the application and the date of each such contribution.

Section - 1155 Conflict of Interest in Zoning Decisions**1155.1 Definitions**

- (a) **Applicant** - Any person or entity applying for a rezoning action or other zoning approval and any attorney or other person representing or acting on behalf of a person who applies of a rezoning or other zoning action.

- (b) Business Entity - Any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.
- (c) Financial Interest - All direct ownership interests of total assets or capital stock of a business entity where such ownership interest is ten percent (10%) or more.
- (d) City Official - The Mayor or any Council Member of the City of Barnesville, Georgia or any member of the Lamar County Planning Commission.
- (e) Member of the Family - The spouse, mother, father, brother, sister, son, or daughter of a city official.
- (f) Property Interest - The direct ownership of real property, including any percentage of ownership less than total ownership.
- (g) Real Property - Any tract or parcel of land and, if developed, any buildings or structures located on the land.
- (h) Rezoning Action - Action by the City Council of Barnesville, Georgia, adopting an amendment to a zoning ordinance which has the effect of rezoning real property from one zoning classification to another.

1155.2 Disclosure of Financial Interests

Any City Official who:

- (a) Has a property interest in any real property affected by a rezoning action which that city official's local government will have the duty to consider is authorized to vote; or
- (b) Has a financial interest in any business entity which has a property interest in any real property affected by a rezoning action upon which that official's local government will have the duty to consider; or
- (c) Has a member of the family having any interest described in paragraph (a) or (b) of this Section shall immediately disclose the nature and extent of such interest, in writing, to the City Council. Such City Official shall disqualify himself from voting on the rezoning action. Disclosures made in accordance with this section shall be a public record and shall be available for public inspection at any time during normal business hours.