

FIRST READING August 14, 2018

ADVERTISED August 22, 2018

PUBLIC HEARING September 11, 2018

PASSED September 11, 2018

AN ORDINANCE NO. 2018-09-11(4)

AN ORDINANCE TO AMEND, UPDATE AND REPEAL CERTAIN PORTIONS OF THE CITY OF BLUE RIDGE, GEORGIA ORDINANCES PERTAINING TO THE REQUIREMENTS FOR FILING AN APPLICATION FOR A MAP AMENDMENT/REZONING AND AN APPLICATION FOR A VARIANCE; FOR ESTABLISHING STANDARDS FOR CONSIDERATION OF VARIANCES AND FOR OTHER PURPOSES;

**WHEREAS**, the City of Blue Ridge, Georgia, desires to update the requirements for filing applications seeking a re-zoning or a variance and to establish standards to consider when issuing variances; and

**WHEREAS**, the City Council of the City of Blue Ridge, Georgia, finds that the certain changes set forth herein will be consistent with the provisions set forth in the City Charter, Ga. Const. Art. 9, § 2, Para. IV, O.C.G.A. § 36-66-1 et seq.; O.C.G.A. § 36-70-1 et seq. and other applicable law;

**NOW, THEREFORE, BE IT ORDERED, AND IT IS HEREBY ORDAINED** by the Council of the City of Blue Ridge, Georgia, as authorized by the City Charter and general law, changes to the Zoning Ordinance as follows:

## SECTION 1

### ARTICLE 23

Section 23.4-1 entitled “Applications” shall be repealed and replaced with the following [needed to file an application for a variance]:

**23.4-1** entitled “**Applications.**” Application for a hearing and decision on requests for variances, appeals, and special exceptions shall be filed with the Zoning Administrator on provided forms at least 30 days prior to the meeting at which they are to be heard. Each application shall contain such information as the Zoning Administrator may require to enable the Board to make its decision. Each application for a variance shall include the following information:

- a. Original notarized signatures of titleholder(s) and representative(s).
- b. If the titleholder(s) is a domestic or foreign corporation, then the following documentation shall also be required:
  - (1) A notarized statement under oath that the individual signing on behalf of the Corporation is duly authorized to execute the variance application on behalf of the Corporation and that the execution of this specific variance application has been duly authorized;
  - (2) That any officer of the corporation executing the document does in fact occupy the official position indicated, that one in such position is duly

authorized to execute such document on behalf of the corporation, and that the signature of such officer subscribed thereto is genuine; and

(3) That the execution of the document on behalf of the corporation has been duly authorized.

c. A copy of the warranty deed that reflects the current owner(s) of the property.

d. A current legal description of the subject property.

e. A copy of current plot plan and current boundary survey drawn to scale and stamped by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws. These plans must include: 1) north arrow; 2) land lot lines; 3) district lines; 4) lot lines 5) angles; 6) bearing and distances; 7) adjoining street with right-of-way (present and proposed); 8) paving widths; 9) the exact size and location of all buildings along with intended use; 10) buffer areas; 11) parking spaces; 12) lakes and streams; 13) utility easements; 14) limits of the 100-year floodplain and acreage of floodplain; 15) cemeteries; 16) wetlands; 17) access points; and 18) stream buffers.

f. A copy of the paid tax receipt for the subject property. Properties with delinquent taxes may be withdrawn by Staff and/or delayed or denied by the Zoning Board of Appeals

**Section 23.3-1** entitled “**Variances**” shall be repealed and replaced with the following:

**23.3-1 Variances.** The Board shall hear and decide applications for variances from the requirements of this Ordinance. The Board shall have the power to:

a. Authorize upon application in specific cases 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 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. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Zoning Board of Appeals that:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
2. The application of this Ordinance to this particular piece of property would create an unnecessary hardship;
3. Such conditions are peculiar to the particular piece of property involved;  
and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

No variance may be granted for a use of land or building or structure that is prohibited by this Ordinance. No variance may be granted that would conflict with or alter a stipulation or condition imposed by the Blue Ridge City Council, except for setback variances which are less than 25 percent than the underlying requirement and do not alter the basic tenets of any site plan included and approved as a stipulation.

#### **ARTICLE 24**

Section 24.2-1 entitled “Application Information” shall be repealed and replaced with the following [needed to file an application for a rezoning]:

- a. Original notarized signatures of titleholder(s) and representative(s).
  - (1) If the titleholder(s) is a domestic or foreign corporation, then the following documentation shall also be required:
    - (i) A notarized statement under oath that the individual signing on behalf of the corporation is duly authorized to execute the rezoning application on behalf of the corporation and that the execution of this specific rezoning application has been duly authorized;
    - (2) That any officer of the corporation executing the document does in fact occupy the official position indicated, that one in such position is duly authorized to execute such document on behalf of the corporation, and that the signature of such officer subscribed thereto is genuine; and

- (3) That the execution of the document on behalf of the corporation has been duly authorized.
- b. A copy of the warranty deed that reflects the current owner(s) of the property. Security deeds are not acceptable.
- c. A current legal description of the subject property. If the application consists of several tracts, a legal description of each tract is required. A separate legal description of each zoning classification is also required, as well as an overall description of all tracts and/or classifications combined. No legal description should include more property than what has been requested for rezoning.
- d. A copy of the paid tax receipt for the subject property. Properties with delinquent taxes may be withdrawn by Staff and/or delayed or denied by the City Council.
- e. A copy of current site plan and current boundary survey drawn to scale by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws. (Plans must be stamped). These plans must include: (1) north arrow; 2) land lot lines; 3) district lines; 4) lot lines; 5) angles; 6) bearing and distances; 7) adjoining street with right-of-way (present and proposed); 8) paving widths; 9) the exact size and location of all buildings along with intended use; 10) buffer areas; 11) parking spaces; 12) lakes and streams;

13) utility easements; 14) limits of the 100-year flood plain and acreage of flood plain; 15) cemeteries; 16) wetlands; 17) access points; and 18) stream buffers.

f. The mailing addressed of the owners of all adjacent abutting properties, including those which would be abutting if not separated by the width of a public street R/W, as shown on the tax records of Fannin County upon the filing date of the said application.

g. The financial disclosure statements regarding: 1) Campaign Contributions and Gifts by Applicants; and 2) Property/Financial Interests by the Applicant, as required by O.C.G.A. § Title 36, Chapter 67A.

h. After the adoption of this ordinance, any other information which may be required under the laws of Georgia, as amended.

i. Every application for rezoning involving a request for a non-residential zoning district shall include a complete written, documented analysis of the impact of the proposed rezoning with respect to each of the following matters:

(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

- (4) 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;
  - (5) Whether the zoning proposal is in conformity with the policy and intent of the land use plan; and
  - (6) 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.
- j. Any other information required under other sections of this Ordinance.

**SECTION 2:**

**REPEAL OF CONFLICTING ORDINANCES TO REMOVE CONFLICT**

All parts of ordinances in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict, but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this Ordinance on behalf of the City of Blue Ridge, Georgia.



### **SECTION 3.**

#### **SEVERABILITY**

If any paragraph, subparagraph, sentence, clause, phrase or any other portion of this Ordinance should be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular person, situation or set of circumstances is declared invalid or unconstitutional, such invalidity shall not be construed to affect the provisions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the legislative intent of the City Council of the City of Blue Ridge, Georgia to provide for separate and divisible parts and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

### **SECTION 4.**

#### **EFFECTIVE DATE**

The effective date of this Ordinance shall be immediately upon its passage by the City Council and execution by the Mayor or upon fifteen (15) days expiring from the date of its passage without a veto of said Ordinance by the Mayor as set forth in the City Charter at Section 3.23(b).

SO ORDAINED, this 11 day of September, 2018.

**BLUE RIDGE CITY COUNCIL**

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Councilperson

\_\_\_\_\_  
Councilperson

\_\_\_\_\_  
Councilperson

\_\_\_\_\_  
Councilperson

\_\_\_\_\_  
Councilperson

Attest:

\_\_\_\_\_  
Kelsey Ledford, City Clerk