

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 116

AN ORDINANCE to amend Ordinance No. 21 and Ordinance No. 24, to establish rules and regulations for, and increase the membership of, the Municipal Planning Commission and the Board of Zoning Appeals for the City of Lookout Mountain, Georgia.

WHEREAS, it is the desire of the City Council of the City of Lookout Mountain, Georgia, to establish rules and regulations for and to increase the number of members of both the Municipal Planning Commission and the Board of Zoning Appeals from five (5) members to nine (9) members;

THEREFORE, be it ordained by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained:

SECTION 1. Ordinance 24 is hereby amended by deleting Section 1 and Section 2 of Ordinance 24.

SECTION 2. Ordinance 21 is hereby amended by deleting Section 1, Section 2, Section 3-1, Section 3-2, Section 3-3, Section 4-1, and Section 4-2.

SECTION 3. In lieu of Section 1, Section 2, Section 3-1, Section 3-2, Section 3-3, Section 4-1, and Section 4-2 of Ordinance No. 21, the following new sections are substituted and shall read as follows:

Section 1. The City of Lookout Mountain, Georgia, does hereby create a Municipal Planning Commission that shall be known as the Municipal Planning Commission of Lookout Mountain, Georgia (the "Commission"). It shall be composed of nine (9) members to be appointed by the City Council after recommendation by the Mayor. Original appointments to the Commission shall be redesignated as follows: Three (3) for a term of one (1) year, three (3) for a term of two (2) years, and three (3) for a term of three (3) years. Subsequent appointments shall be for terms of three (3) years each. Members of the Commission shall serve without compensation, provided, however, that the City Council may subsequently determine the amount, if any, of compensation for such members.

Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the City Council after recommendation by the Mayor. Upon

recommendation by the Mayor and approval by the City Council, any Commission member may be removed for cause after written notice and a public hearing.

Section 2-1. The Commission shall elect one of its appointive members as chairman who shall serve for one year or until he is re-elected or his successor is elected. A second appointive member shall be elected as vice chairman, and he shall serve for one year or until he is re-elected or his successor is elected. The Commission shall appoint a secretary who may be an officer or an employee of the City of Lookout Mountain or a member of the Commission.

The Commission shall meet at least once a year at the call of the chairman and at such other times as the chairman may determine. The Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. Such record kept by the Commission shall be a public record.

The Commission may appoint such employees and staff as it may deem necessary for its work. In the performance of its duties, the Commission may cooperate with, contract with, or accept funds from Federal, State, or local, public, or semi-public agencies or private individuals or corporations, may expend such funds, and may carry out such cooperative undertakings and contracts. The Commission may also make expenditures for the purchase of required equipment and supplies. All such expenditures of the Commission, exclusive of gifts to the Commission or contract receipts, however, shall be within the amounts appropriated for that purpose by the City Council.

Section 2-2. The Commission shall have as its function and duty the making of careful and comprehensive surveys and studies of existing conditions and probable future developments and the preparation of such plans for physical, social, and economic growth as will best promote the public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy in the development of the City of Lookout Mountain, Georgia. The Commission shall specifically have the power and duty to:

1. Prepare a master plan or parts thereof for the development of the City of Lookout Mountain.
2. Prepare and recommend for adoption to the City Council a zoning ordinance or resolution and map for the City of Lookout Mountain.
3. Prepare and recommend for adoption to the City Council regulations for the subdivision of land within the City of Lookout Mountain, and to administer such regulations as may be adopted.

4. Prepare and recommend for adoption to the City Council a plat or plats or 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 the City limits or any specified portion thereof.
5. Agree with the governing bodies or designated authorities of contiguous counties and municipalities upon boundaries, procedures for joint action, procedures for the adoption and administration of ordinances and resolutions, and regulations applying to unincorporated areas adjacent to the City of Lookout Mountain. Any such areas may be included in the area for which the Commission has authority to prepare a general plan and a master plan and to prepare and administer zoning ordinances or resolutions, land subdivision regulations, and official maps.

Section 2-3. The Commission may also make, publish and distribute maps, plans, and reports and recommendations relating to the plan and development of the City to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. It may also recommend to the City Council public improvements and plans for the financing thereof. All public officials of the City shall, upon request, furnish to the Commission, within a reasonable time, such available information as the Commission may require for its work. The Commission, its members and employees, in the performance of Commission functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote the planning of the City of Lookout Mountain, including the authority to enter into agreements with political subdivisions and planning commissions, by whatever name known, in adjacent states.

Section 3-1. The City Council may by resolution or ordinance provide for the reference of any matter or class of matters to the Commission before final action thereon by the City Council. The City Council shall take no final action upon such matters referred to the Commission until the Commission has submitted its report thereon, but the Commission's report shall be made within thirty (30) days of the reference. In the event the Commission fails to make its report within thirty (30) days, and the City Council does not grant the Commission an extension of time, the Council may act without the report.

Section 3-2. Five (5) members of the Commission shall constitute a quorum. In making

recommendations and reports to the City Council and in taking other authorized action, affirmative votes of the majority present shall be required. No Commission member shall act in a case in which he has a personal interest. The Commission may request the Mayor to appoint a temporary Commission member, and the Mayor shall be authorized to so appoint such temporary member without City Council approval, in situations where it is necessary to obtain a quorum of uninterested members.

Section 4-1. City of Lookout Mountain, Georgia does hereby create a Board of Zoning Appeals which shall be known as the Board of Zoning Appeals of Lookout Mountain, Georgia (the "Board"). It shall be composed of nine (9) members to be appointed by the City Council after recommendation by the Mayor. Original appointments to the Board shall be as follows: Three (3) for a term of three (3) years, three (3) for a term of four (4) years, and three (3) members for terms of five (5) years. Subsequent appointments shall be for terms of five (5) years each.

Section 4-2. Five (5) members of the Board shall constitute a quorum. Any action by the Board shall be upon the affirmative vote of the majority present. No Board member shall act in a case in which he has a personal interest. The Board may request the Mayor to appoint a temporary Board member, and the Mayor shall be authorized to so appoint such temporary member in situations where it is necessary to obtain a quorum of uninterested members.

Section 4-3. The Board shall elect one of its members as chairman, who shall serve for one year or until he is re-elected or his successor is elected. The Board shall appoint a secretary who may be an officer of the City or a member of the Board. The Board shall adopt rules for the transaction of its business. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.

The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public records.

Section 4-4. Appeals to the Board may be taken by any person aggrieved by action described in Section 4-7 below. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

Section 4-5. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

Section 4-6. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice thereof. In addition, the Board shall give due notice to the parties in interest and shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

Section 4-7. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the City's zoning ordinance (Ordinance No. 25, as amended) or any resolution promulgated thereunder.
2. To hear and decide special exceptions to the terms of the aforesaid zoning ordinance or resolution upon which such Board is required to pass under such ordinance or resolution.
3. To authorize upon appeal in specific cases such variance from terms of the aforesaid zoning ordinance or resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance or resolution will, in an individual case, result in unnecessary hardship, so that the spirit of the ordinance or resolution 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 Board that:
  - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography, and
  - (b) The application of the ordinance or resolution to this particular piece of property would create an unnecessary hardship, and

- (c) Such conditions are peculiar to the particular piece of property involved, and
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or resolution; provided, however, that no variance may be granted for a use of land for building or structure that is prohibited by the ordinance or resolution.

4. In exercising any of the above powers, the Board may, after notice and hearing, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

Section 5. The City Council may provide for the enforcement of any ordinance or resolution adopted by the Commission or of decisions of the Board. Any person aggrieved by any decision of the Board may take an appeal to the Superior Court of Walker County, Georgia. Such appeal may be filed within thirty (30) days from the date of the decision of the Board, and upon failure to file such appeal within thirty (30) days, the decision of the Board shall be final.

SECTION 4. Except as specifically amended herein, Ordinance No. 21 and Ordinance No. 24 shall remain unaffected hereby.

SECTION 5. It is the intention of the City Council of the City of Lookout Mountain, Georgia, and is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be renumbered to accomplish this intention.

SECTION 6. If any section, sub-section, sentence, or clause of this Ordinance be adjudged invalid, such adjudication shall not affect the validity of the Ordinance as a whole or any section, sub-section, sentence, or clause hereof not adjudged invalid.

SECTION 7. All other ordinances or parts thereof heretofore enacted by the City in conflict herewith are hereby repealed.

SECTION 8. This ordinance shall be effective ten (10) days after its adoption by at least three (3) members of the City Council of the City of Lookout Mountain, Georgia, after two (2) readings at least one week apart.

Approved on first reading on January 16,  
1986.

*James Bentley*  
Member of City Council

*Reginald W. Conrad*  
Member of City Council

*Sam N. Hinkle*  
Member of City Council

*Edward N. Toliver*  
Member of City Council

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Member of City Council

*Hammond*  
Mayor of Lookout Mountain,  
Georgia

Approved and adopted on second reading on  
February 20, 1986.

*James Bentley*  
Member of City Council

*Reginald W. Conrad*  
Member of City Council

*Edward N. Toliver*  
Member of City Council

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Member of City Council

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Member of City Council

*Hammond*  
Mayor of Lookout Mountain,  
Georgia

ATTEST:

*Janice Stewart*  
City Clerk