

ARTICLE IV. GENERAL PROCEDURES

Section 401: Initial Information.

- A. Article IV outlines the procedures to be followed in order to comply with the requirements of this Ordinance. The developer (See definition of "developer" in Article II), who initially may not be familiar with this Ordinance, first visits the Administrative Officer to get information concerning ordinance affecting his proposed development.
- B. The Administrative Officer will show the developer a copy of this Ordinance. The developer may either review the document in the office or he may purchase a copy for his own use.

Section 402: Compliance with Zoning Ordinance Required.

- A. No building is to be erected, used, occupied, moved, or altered in a manner that does not conform to the requirements specified for the district in which it is located.
- B. The only exception to this requirement is that all buildings or uses which lawfully existed at a particular location at the time this Ordinance was adopted may be continued as "Non-Conforming Uses".

Section 403: Continuance of Non-Conforming Uses.

Invariably, at the time a land use and development control ordinance is adopted or amended, certain uses which lawfully existed prior to the adoption or Amendment will not conform to the regulations and standards for the districts in which they are located. These are known as non-conforming uses, and in order to feasibly adopt the ordinance and so as not to cause undue economic hardship on owners of non-conforming uses, these uses are allowed to continue under Special Conditions as outlined in the following parts of this section:

- A. Where a non-conforming use of a building or lot has ceased for more than six (6) months or has changed to a permitted or conforming use, further use of the building or lot must be in conformance with the standards and requirements for the district in which it is located.
- B. A non-conforming use must not be extended or altered unless the extension or alteration is in conformance with the requirements of the Ordinance.

- C. A non-conforming use which is altered or extended must meet applicable Molena building codes and development regulations. When an applicant seeks a Building Permit for the extension or alteration of a non-conforming use, the Administrative Officer will inspect the unit and determine what (if anything) is needed to bring the unit into conformance with applicable building codes and development regulations. Upon determining that the unit meets applicable building codes and development regulations, he will issue the Building Permit for the non-conforming use.
- D. If a non-conforming building or structure suffers damage which does not exceed fifty (50) percent of its assessed valuation, the building or structure may be reconstructed and reused as before if done within twelve (12) months from the time such damage occurred. If such damage is greater than fifty (50) percent of its assessed valuation, such a building or structure may only be reconstructed and used in conformity with the standards and requirements for the district in which it is located.
- E. A use which is non-conforming only with respect to screening or buffer requirements must provide required screens or buffers within a period of three (3) years from the effective date of this Ordinance. This time period is to allow for the growth of natural vegetative buffers.

Section 404: Building Permit Required.

- A. The developer or other person wishing to do any of the following must first apply to the Administrative Officer for a Building Permit:
 - 1. Excavation or filling of a lot for the construction of a building.
 - 2. Erection, movement, extension, or enlargement of a building.
 - 3. Work on an existing building which increases the assessed value \$500 or more.
 - 4. Installation of a Manufactured Home or Industrialized Building.
- B. No electricity, water, or sewage hookup will be made available to the site of new construction until a Building Permit is secured.

- C. The Building Permit must be applied for either by the owner of the land upon which the proposed building or alteration is to be located, or by the contractor doing the work.
- D. The applicant may obtain a Building Permit application from the Administrative Officer. He should complete the application form and submit it to the Administrative Officer, together with any supporting documentation which the Administrative Officer may specify.
- E. No application will be accepted from any person who is in violation of the Zoning Ordinance. If an applicant for a Building Permit is, at the time of such an application, determined by the Administrative Officer to be in violation of the Zoning Ordinance, then the Administrative Officer will be prohibited from accepting or processing any application from that applicant until the applicant does one of the following:
1. He must voluntarily remove or change the cause of the violation and cease to be in violation. The applicant must notify the Administrative Officer that he has ceased the violation and obtain a release from the Administrative Officer as to the violation.
 2. He must be tried before a Court of competent jurisdiction and acquitted of charges and present a certified copy of the Court Order to the Administrative Officer within thirty (30) days of the final order of the Court.
- F. When the applicant has ceased to be in violation by either "1" or "2" above, the Administrative Officer will then accept the application for Building Permit.
- G. Before a Building Permit is issued by the Administrative Officer, the Pike County Health Department must approve the proposed water supply and sewage disposal facilities required in connection with the proposed building or structure. In areas served by a public water and sewage system, the Health Department may elect to waive the requirement for approval. After study of the site of a proposed use, the Health Department may require for health reasons that all or any portion of the site not be used for the intended purpose. The Health Department may also set a minimum lot size larger than that required by this Ordinance.

The Pike County Health Department will either approve or disapprove the water and sewer facilities within thirty (30) days of receipt of the application from the Administrative Officer, providing a written decision, including reasons for the decision.

- H. An existing use which is altered or extended must meet applicable Molena building codes and development regulations. When an applicant seeks a Building Permit for the extension or alteration of an existing use, the Administrative Officer will inspect the use and determine what (if anything) is needed to bring the use into conformance with applicable building codes and development regulations before a Building Permit may be issued.
- I. The Administrative Officer is in charge of issuing Building Permits. The Administrative Officer will contact the applicant at the address shown on the application. The Building Permit will be issued if, upon review of the application and inspection of the site, the Administrative Officer is satisfied that the proposed project will meet the requirements of this Ordinance and all other applicable ordinances. The Administrative Officer may require the submission of additional materials if he feels additional information is needed in order to determine if the proposed project meets the requirements of this Ordinance.
- J. If the Administrative Officer feels that the proposed project as presented in the Building Permit application will not satisfy the requirements of this Ordinance, he will not issue a Building Permit. He will notify the applicant in writing within ten (10) days of the submission of the application, stating reasons for the refusal. The applicant will then need to confer with the Administrative Officer to determine what he needs to do in order to comply with the Ordinance and be eligible for a Building Permit.
- K. Construction on an approved project must start within six (6) months from the date of issue of the Building Permit, or the permit will become invalid and a new one must be applied for if construction of the project is desired at a future date. If construction has begun on an approved project and then ceases before the project is completed, construction must be restarted within twelve (12) months from the time that it was stopped, or the permit will become invalid and a new one must be applied for if construction of the project is desired to resume at a future date. Records of Building Permit applications and supporting materials will be maintained by the Administrative Officer.

- L. All newly constructed buildings, as well as additions, extensions, or enlargements of structures must comply with all building codes in effect in Molena. The Administrative Officer will explain the procedures and timing of inspections to determine if work meets applicable codes.

Section 405: Certificate of Occupancy Required.

- A. A Certificate of Occupancy is required before a structure for which a Building Permit has been issued may be occupied or used. The Building Permit becomes the Certificate of Occupancy when the Administrative Officer signs it in the appropriate space, certifying that to the best of his knowledge all requirements of this Ordinance have been met. The owner/contractor will then receive the Certificate of Occupancy to be used as confirmation that he has complied with the provisions of this Ordinance.
- B. The Administrative Officer will issue the Certificate of Occupancy within ten (10) days of receiving the Building Permit with required certifications, if he finds that all requirements of this Ordinance and all other applicable ordinances have been met. However, if he finds that all requirements of such ordinances have not yet been met when the owner/contractor seeks a Certificate of Occupancy, the Administrative Officer will not issue the Certificate of Occupancy. He will notify the owner/contractor within ten (10) days, stating reasons for the refusal. The owner/contractor will then need to confer with the Administrative Officer to determine what he needs to do in order to comply with the Ordinance and be eligible for a Certificate of Occupancy.

Section 406: Appealing an Action of the Administrative Officer or Planning Commission.

- A. If the Administrative Officer or Planning Commission executes an action which the developer or other aggrieved party believes to be contrary to law, that action may be appealed. Findings of fact, however, may not be appealed. Such an appeal must be filed within thirty (30) days of the date on which the action by the Administrative Officer or Planning Commission was taken.

- B. The Board of Appeals has jurisdiction for hearing appeals concerning actions of the Administrative Officer or Planning Commission related to this Ordinance. Applications for appeal may be obtained from and submitted to the Administrative Officer, who will transmit them to the Board of Appeals for its consideration.
- C. When an action of the Administrative Officer or Planning Commission is appealed, all construction or other activity authorized by the appealed action must be stopped immediately. In certain cases, however, the Administrative Officer may feel that the stopping of such construction or other activity authorized by the appealed action will cause imminent peril to life or property. Then, the Administrative Officer may certify to the Board of Appeals that, by reason of facts stated in the certificate, the halting of construction or other activity authorized by the appealed action would in his opinion cause imminent peril to life or property. In such cases, the construction or other activity authorized by the appealed action is allowed to continue unless a restraining order is granted by either the Board of Appeals or a court of appropriate jurisdiction.
- D. When an application for appeal of an action of the Administrative Officer or Planning Commission is received, the Board of Appeals will set a time and place for a public hearing on the appeal. Notice of the hearing must be published in a newspaper of general circulation in Molena at least fifteen (15) days before the hearing. In addition, the parties to the appeal will be notified of the date of the hearing by the Board of Appeals by U. S. Mail at least fifteen (15) days before the hearing. Any person may appear at the hearing, or have a representative attend instead.
- E. The Board of Appeals will make a decision concerning the appeal and record the decision in the minutes for that meeting. Further appeal on points of law may be made to the Pike County Superior Court.

Section 407: Variances:

- A. A Variance is a permit, issued by the Board of Appeals, which allows use of a parcel of land in a way that does not meet certain requirements for the district in which the property is located. A Variance may be granted only in an individual case where an extreme hardship would result if all of the requirements of this Ordinance were applied stringently to a particular

piece of property. The hardship must be proven by showing beyond a doubt that reasonable use of the land is not possible if all of the requirements of this Ordinance are to be met. The hardship cannot be self-created such as:

1. A lot purchased with knowledge of an existing restriction.
 2. A claim of hardship in terms of prospective sales.
 3. An expressed economic need requiring a Variance, when such a need can be met in other ways which would not require a Variance.
- B. Relief from the hardship--the Variance--must not cause substantial detriment to the public good or impair the purposes of this Ordinance.
- C. When a Variance is issued, the spirit of this Ordinance must be observed and the public safety and welfare secured. A Variance may be granted only for Permitted Uses in the zoning district in which the property in question is located. (For example, a two-family dwelling would not be allowed to be placed in an R-1 district under a Variance).
- D. The developer or owner wishing to request a Variance must have at least fifty-one (51) percent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing, under the owner's signature. The Planning Commission or Mayor and Council may also propose a Variance. However, the power to approve a Variance rest with the Board of Appeals.
- E. Application for a Variance may be made with the Administrative Officer. The Administrative Officer will take the required information and transmit it to the Board of Appeals for its consideration. No application is to be accepted from any person in violation of the Zoning Ordinance. If an applicant for a Variance or any other action by the Board of Appeals is, at the time of such application, determined by the Administrative Officer to be in violation of the Zoning Ordinance, then the Administrative Officer will be prohibited from accepting or processing any application from that applicant until the applicant does one of the following:
1. He must voluntarily remove or change the cause of the violation and cease to be in violation. The applicant must notify the Administrative Officer

that he has ceased the violation and obtain a release from the Administrative Officer as to the violation.

2. Has been tried before a Court of competent jurisdiction and acquitted of charges and presents a certified copy of the Court Order to the Administrative Officer within thirty (30) days of the final order of the Court.
- F. When the applicant has ceased to be in violation by either 1. or 2. above, the Administrative Officer will then accept the application for Variance.
 - G. When an application for a Variance is received, the Board of Appeals will set a time and place for a public hearing on the Variance. Notice of the hearing must be published in a newspaper of general circulation in Molena at least fifteen (15) days before the hearing. Such notice will state the application number, owner's name, property location, its area, time, place and subject of the hearing. At least fifteen (15) days before the public hearing, notice of the time, place, and subject of the hearing will be sent to the appellant or petitioner in writing by U.S. Mail to his last known address. Copies of all such letters will be maintained in the applicant file for permanent record.
 - H. The Board of Appeals will make a decision concerning the Variance and record the decision in the minutes for that meeting.
 - I. The Variance issued by the Board of Appeals must specify which requirements are to be varied from. It must specify alternative requirements to be met, replacing the requirements varied from.
 - J. The Board of Appeals may establish performance bonds to assure compliance with any requirements it has set for granting a Variance. Where a Variance is granted for a construction activity requiring a Building Permit, the Building Permit must be obtained and construction must begin within six (6) months of the issuance of the Variance. Otherwise, the Variance expires after six (6) months.
 - K. The decision of the Board of Appeals on the application for Variance may be appealed on points of law to the Pike County Superior Court.

Section 408: (Reserved).

Section 409: (Reserved).

Section 410: Amendments.

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- A. If a developer or landowner finds that a proposed new use of his land does not meet the requirements of this Ordinance, he may request that this Ordinance be amended to permit his proposed use. The developer or owner wishing to request an Amendment of the Official Map must have at least fifty-one (51) percent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing under the owner's signature. The Planning Commission or the Mayor and Council may also propose an Amendment. However, the power to approve and enact an Amendment rests with the Mayor and Council.
- B. Application for an Amendment may be made with the Administrative Officer. The Administrative Officer will take the required information and transmit it to the Board of Appeals for its consideration. No Application is to be accepted from any person in violation of the Zoning Ordinance. If an applicant for an Amendment or any other action by the Board of Appeals is, at the time of such an application, determined by the Administrative Officer to be in violation of the Zoning Ordinance, then the Administrative Officer will be prohibited from accepting or processing any application from that applicant until the applicant does one of the following:
1. He must voluntarily remove or change the cause of the violation and cease to be in violation. The applicant must notify the Administrative Officer that he has ceased the violation and obtain a release from the Administrative Officer as to the violation.
 2. He must be tried before a Court of competent jurisdiction and acquitted of charges and present a certified copy of the Court Order to the Administrative Officer within thirty (30) days of the final order of the Court.
- C. When the applicant has ceased to be in violation by either 1. or 2. above, the Administrative Officer will then accept the application for Amendment.
- D. When an Amendment is initiated which involves changing the zoning district of a parcel of land, the Administrative Officer must post a sign at least two (2) feet by three (3) feet in size in a conspicuous

place on the property at least fifteen (15) days but not more than forty-five (45) days prior to the date of the scheduled public hearing. The sign must set forth the fact that it is a "ZONING NOTICE". It must show the present zoning classification, the proposed zoning classification, the purpose, date, time, and place of the scheduled public hearing, and it must inform the public that additional information may be obtained from the Administrative Officer.

- E. All applications for Amendment must first be reviewed by the Planning Commission. The Planning Commission will study the proposed Amendment and determine if it meets the requirements of this Ordinance, as well as other applicable ordinances of Molena. At this time, the Administrative Officer may review the proposed Amendment and make written recommendations to the Planning Commission.
- F. The Planning Commission must then conduct a public hearing on the Amendment. The responsibility of conducting the public hearing is delegated by the Mayor and Council to the Planning Commission under provisions specified in the Zoning Procedures Law (Ga. Code 1981, Section 36-66-1, enacted by Ga. L. 1985, p.1139, 1.), paragraph 2-(b)-(1). (See Section 105, paragraph F. of this Ordinance for additional details.) Notice of the hearing must be published in a newspaper of general circulation in Molena at least fifteen (15) days but not more than forty-five (45) days before the hearing Contents of Notice set forth. The location of the property, present zoning classification, and proposed zoning classification must be indicated in the newspaper notice.
- G. The following policies and procedures will be observed in conducting the required public hearing:
1. The hearing will be held in the Molena City Hall.
 2. Written comments on the subject of the hearing may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
 3. Persons desiring to be heard orally may present their views at the hearing. The length of time of oral presentations permitted to each speaker will be governed by the Planning Commission, depending upon the number of persons present and desiring to speak. Personal remarks will not be tolerated.

4. Any person desiring a transcript of the hearing must arrange for a court reporter at their own expense.
 5. Cross-examination of persons making oral presentations will not be permitted.
 6. All questions will be addressed to the Chairman of the Planning Commission or the Planning Commission member then presiding.
 7. "Standing" to challenge a zoning decision is not conferred by being permitted to speak orally at a hearing, nor by being permitted to file statement or pleadings.
- H. The Planning Commission will, when considering a proposed Amendment to the Zoning Ordinance, first determine whether the limitation imposed by such an Amendment, if any, on the right to unrestricted use of property which might result from the proposed Amendment is necessary to promote the public health, safety, or general welfare. In considering whether to recommend a change in the zoning classification of any particular property, the Planning Commission will balance the benefit to the public of the present zoning classification of the property against the detriment to the property owner, and scrutinize the application in light of the character of the land in question and the effect of the zoning decision upon the property owner's rights. In making these determinations, the Planning Commission must consider the following:
1. The existing uses and zoning of nearby property.
 2. The suitability of the property for the zoned purpose.
 3. The length of time the property has been vacant.
 4. The threat to the public health, safety, and welfare if rezoned.
 5. The extent to which the value of the property is diminished by the present zoning.
 6. The balance between the hardship on the property owner and the benefit to the public in not rezoning.

- I. The Planning Commission may also consider whether development of the property in the zoning classification sought would do any of the following:
1. Have an adverse effect on the insurance rating of the City, or any substantial portion of the City, issued by the Insurance Service Office or similar rating agency.
 2. Overtax the public utilities and streets presently existing to serve the site.
 3. Have a substantial adverse impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality, and water quality and quantity.
- J. The Planning Commission will make a written record of the comments received at the public hearing. After the public hearing, and at an official meeting of the Planning Commission, the Planning Commission will formulate its recommendations to the Mayor and Council, recording them in the minutes for that meeting. The Planning Commission will send the written record of comments received at the public hearing along with its recommendations on the proposed Amendment in writing to the Mayor and Council within thirty (30) days of the close of the public hearing, stating reasons for its recommendations. If the Planning Commission fails to send its recommendations to the Mayor and Council within thirty (30) days of the close of the public hearing, the Mayor and Council will assume that the Planning Commission approves.
- K. After reviewing the record of the public hearing and considering recommendations from the Planning Commission, the Mayor and Council will then make an official decision on the proposed Amendment. The decision may or may not concur with the recommendations of the Planning Commission.
- L. If the Mayor and Council deny a proposed Amendment, a minimum period of twelve (12) months must pass before the same Amendment proposal is again submitted for consideration.

Section 411: (Reserved).

Section 412: Appealing an Action of the Mayor and Council.

If the Mayor and Council execute an action which the developer or other aggrieved party believes to be contrary to law, that action may be appealed to the Pike County Superior Court. Findings of fact, however, may not be appealed. Such an appeal must be filed within thirty (30) days of the date on which the action of the Mayor and Council was taken.

Section 413: Penalties. Any person who violates any of the provisions of this Ordinance must face penalties. If a developer or landowner exhausts the decision and appeals procedures contained in Article IV and is still dissatisfied with the decision, he must then comply with the final decision or face penalties. Anyone who violated any of the provisions of this Ordinance, upon conviction, will be fined no more than five hundred (500) dollars for each offense. In addition, he must pay all costs and expenses involved in the case. Each day such a violation continues constitutes a separate offense.

- A. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such a violation may each be found guilty of a separate offense and suffer the penalties provided here.

Section 414: Remedies. If any building or land is used or maintained in violation of this Ordinance, anyone, including the City, who would be harmed by such a violation may initiate legal proceedings to obtain an injunction or other appropriate remedy to stop the violation or to prevent any act which would constitute such a violation. Other legal remedies are also available as provided by Georgia law.