

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE TA-2024-04

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HOSCHTON, GEORGIA, ARTICLE VIII, “ZONING AMENDMENTS AND APPLICATIONS,” TO ADD A NEW SECTION 8.08, “DURATION OF APPROVAL.” AND FOR OTHER PURPOSES

WHEREAS, The City of Hoschton desires to amend the Hoschton zoning ordinance pertaining to the duration of rezoning, conditional use, and variance approvals; and

WHEREAS, A notice of public hearings before the Hoschton Planning and Zoning Commission and the Hoschton City Council on this matter was published in a newspaper of general circulation within the City of Hoschton as required by the zoning procedures law and the Hoschton zoning ordinance for text amendments; and

WHEREAS, The Planning and Zoning Commission and the City Council each conducted a public hearing on this matter; and

WHEREAS, The Hoschton City Council finds that it is necessary, desirable and in the public interest to amend the Hoschton Zoning Ordinance;

Now therefore, the Hoschton City Council ORDAINS as follows:

Section 1.

The Hoschton Zoning Ordinance, Article VIII, “Zoning Amendments and Applications,” is amended to add a new Section 8.08, “Duration of Approval” as follows:

“Section 8.08. Duration of Approval.

(a) Findings, purposes and intentions.

- 1. It is in the public interest to ensure that development projects receiving variance, conditional use, and/or rezoning approvals through public hearing processes are completed as represented and approved. It is in the public interest to mitigate land speculation at the expense of the general public.**
- 2. A project that does not commence, or for which substantial progress has not been accomplished according to a schedule approved by the City Council, can have adverse impacts on the city and county providing services, since local governments are required to plan for, finance, and construct public improvements in support of developments as represented and approved. The expenditure of funds for capital improvements supporting development projects**

are still required to be made by local governments, whether or not said projects have commenced or made substantial progress toward completion. For instance, any loans secured by a local government for capital improvements supporting the development must be paid, whether or not a given development project has paid development, utility connection, building, and development impact fees.

3. It is recognized that developers need flexibility to meet consumer demand and adjust to market forces, because they face a host of challenges to commence and make substantial progress toward completion of development projects including a variety of extenuating circumstances. Owners should be afforded the opportunity to request and receive adjustments to approved project schedules and to request additional time to commence or make substantial progress toward completion of projects, as conditions warrant.

(b) Definitions.

Commencement: Commencement shall include but shall not necessarily be limited to the following: Submission to the city of a complete application for land disturbance permit, development permit, or building permit; submission of completed application for an encroachment permit to the Georgia Department of Transportation; and/or submission of any other complete application for regulatory approval by a state or federal agency.

Substantial progress: Substantial progress shall include but shall not necessarily be limited to the following: acquisition of off-site easements required for the project; installation in whole or in part of utilities or improvements on the site; payment in whole or in part of required water and sewer connection fees, and dedication of right of way required as a condition of approval or as may be required by the Georgia Department of Transportation for access to a state route.

- (c) Applicability. This section shall apply to applications for official zoning map amendment (rezoning), conditional use permits, and variances.

- (d) Project schedule. On or after September 17, 2024, the City Council may grant a variance, approve a conditional use permit, or rezone property conditioned upon the completion of a project schedule by the applicant. A project schedule may include a commencement date, a substantial progress date, and/or an anticipated completion date. If a project schedule containing commencement, substantial progress, or anticipated completion dates is made a part of the condition of approval of a variance, conditional use permit, or rezoning, the project proposed in the application shall:

1. Commence or receive a certificate of occupancy or certificate of completion within eighteen months from the date of approval of City Council; otherwise the approval shall be subject to the procedure for lapse of an approved project schedule established in this section; provided, however, an owner may request

and the City Council may grant an extension of time, in accordance with this section.

2. Following commencement, achieve substantial progress within thirty months from the date of approval of city council; otherwise the approval shall be subject to the procedure for lapse of an approved project schedule established in this section; provided, however, an owner may request and the City Council may grant an extension of time in accordance with this procedures in this section.

(e) Process for extensions. An owner may request an extension to an approved project schedule to commence or make substantial progress toward a development project, in accordance with this subsection.

1. Applications for an extension to a project schedule shall be made in writing to the zoning administrator; a fee may be charged if a fee for a project schedule extension is included in a fee schedule adopted by resolution of the City Council.
2. The application shall include the reasons for the extension request, the amount of time requested for the extension, and a proposed (revised) project completion schedule.
3. An extension of a project schedule shall not be deemed to require a formal amendment to the conditions of approval and the grant of a project schedule extension by City Council shall not be required to adhere to zoning procedures for public hearings.

(f) Standards for extensions. One or more of the following standards may be cause for applying for and granting an extension to a project schedule. The applicant may request, the zoning administrator may recommend, and the City Council may approve, an extension to a project schedule if the applicant can demonstrate that one or more of the following standards exist:

1. The owner has a significant monetary investment in the project to date, extending beyond the preparation of civil engineering plans and purchase of the real estate; and/or
2. The owner has demonstrated he or she has proceeded with due diligence and in good faith to complete the project and has made reasonable if not substantial progress to date on the development and completion of the project; and/or
3. One or more extenuating circumstances exist, including but not limited to documented delays beyond the control of the owner, caused by: delay in approval from a regulating agency, complications in real estate transactions, unforeseen physical property conditions, adverse health of a responsible individual, adverse weather conditions, delays in the scheduling of utility relocations, challenges in securing project financing, severe macro- or micro-

economic conditions, local, state or national emergencies, and/or other extenuating circumstances beyond the control of a responsible party.

- (g) Effect of extension. City Council approval of an application for project schedule extension shall supersede the previously approved project schedule without the need to amend conditions of approval imposed on the project approved.
- (h) Lapse of project schedule. If a project schedule, made a condition of approval by the City Council (on or after September 17, 2024) as a part of its approval of a rezoning, conditional use permit, and/or variance has not been met, and if a complete application for extension of the approved project schedule has not been made, the following procedures shall be required:
1. The zoning administrator shall send a written notice by Certified United States Mail, Return Receipt Requested, to the owner as stated in the original application for variance, conditional use or rezoning, as well as to the current owner of record according to the tax records of the Jackson County Tax Assessor associated with development project, if different, that the project schedule has lapsed.
 2. The zoning administrator shall schedule the matter of a lapsed project schedule for consideration by the City Council. The zoning administrator shall provide written notice to the applicant of the date, time and place of the City Council meeting(s) during which the lapse of project schedule will be scheduled for consideration. The owner or any other person with interest in the project may appear and shall be afforded an opportunity to speak to City Council concerning the matter.
 3. At a scheduled voting session, the City Council may, but is not necessarily required to, initiate a process consistent with zoning procedures law and procedures of this zoning ordinance to revoke a variance or conditional use permit previously approved on or after September 17, 2024, but for which a project schedule has lapsed, or to modify the zoning classification granted or revert the zoning classification granted to the zoning district that existed prior to September 17, 2024. Any such action shall be consistent with procedures of this zoning ordinance for notice and public hearings for the type of application with a project schedule that has lapsed. Alternatively, the City Council may elect to take no action to initiate a reversion or revocation process.
 4. The City Council may, after following applicable required procedures, in regular session approve an ordinance or resolution, as the case may be, to reverse or revoke a previously approved conditional use permit or variance or revert the zoning district for the project to the zoning category that existed for the subject property prior to approval for the project with a lapsed project schedule. Alternatively, the City Council may elect to take no action, or it may grant an extension to the approved project schedule based on information provided by the

owner, the zoning administrator, or on its own initiative that such an extension is appropriate.

- (i) Monitoring. It shall be the responsibility of the zoning administrator to monitor all approvals of variance, conditional use permit and rezonings on or after September 17, 2024, for which a project schedule has been imposed by City Council, and to initiate actions specified in this section in cases where a required project schedule has lapsed.**

Section 2.

All ordinances, or parts of ordinances in conflict herewith are hereby repealed.

Section 3.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 4.

The effective date of this ordinance shall be the date of adoption.

Adopted this 17th day of September, 2024.

Debbie Martin, Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Jennifer Harrison, City Clerk

APPROVED AS TO FORM

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Abbott S. Hayes, Jr., City Attorney

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