

1865

11-0-0824

(Do Not Write Above This Line)

AN ORDINANCE

BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND SECTION 6-4028 AND TO CREATE SECTION 6-4028.1 OF THE LAND DEVELOPMENT CODE, PART III OF THE CODE OF ORDINANCES, SO AS TO CHANGE THE DEFERRAL FEE FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS BEFORE THE BOARD OF ZONING ADJUSTMENT TO A FLAT FEE FOR EACH INSTANCE THAT THE BOARD GRANTS AN APPLICANT'S REQUEST FOR DEFERRAL TO A SUBSEQUENT PUBLIC HEARING ON THE APPLICATION; AND FOR OTHER PURPOSES.

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 06/06/11

Referred To: Zoning

Date Referred

Referred To:

Date Referred

Referred To:

Committee Zoning First Reading
 Date June 15, 2011
 Chair [Signature]
 Referred To ZONING

Committee Zoning
 Date June 15, 2011
 Chair [Signature]

Action
 Fav, Adv, Hold (see rev. side) May 2, 2012 P.H.
 Other
 Members

Refer To

Committee Zoning
 Date May 2, 2012
 Chair [Signature]

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

AUTOMATICALLY TERMINATED

FILED BY CLERK PER CHARTER SECTION 2-407 DEC 02 2013

Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

Refer To

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Consent
- V Vote
- RC Vote

CERTIFIED

DEC 02 2013

ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
DEC 02 2013

Ronda Dandrea Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

**AN ORDINANCE
BY: ZONING COMMITTEE**

AN ORDINANCE TO AMEND SECTION 6-4028 AND TO CREATE SECTION 6-4028.1 OF THE LAND DEVELOPMENT CODE, PART III OF THE CODE OF ORDINANCES, SO AS TO CHANGE THE DEFERRAL FEE FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS BEFORE THE BOARD OF ZONING ADJUSTMENT TO A FLAT FEE FOR EACH INSTANCE THAT THE BOARD GRANTS AN APPLICANT'S REQUEST FOR DEFERRAL TO A SUBSEQUENT PUBLIC HEARING ON THE APPLICATION; AND FOR OTHER PURPOSES.

WHEREAS, currently there is an application fee, based on the zoning district, required to be paid by an applicant seeking a variance or special exception from the City of Atlanta Board of Zoning Adjustment ("Board"); and

WHEREAS, the purpose of the fee is to cover the administrative costs associated with such application including the costs incurred to notice the public hearing, which notice includes mailings to property owners within 300 feet of the subject property, posting of sign(s) at the subject property, and publication in a newspaper of general circulation ("notices"); and

WHEREAS, in the event the Board grants one or more deferrals from the advertised public hearing to a future public hearing, the City incurs additional costs beyond that which may be covered in the application fee in causing any subsequent notices to be given of the public hearing date to which the Board has deferred the application ("re-notice"); and

WHEREAS, currently and pursuant to 09-O-0802 there is deferral fee imposed on a variance or special exception applicant to cover the actual costs incurred by the City in re-noticing the public hearing in accordance with the requirements of the Atlanta Zoning Ordinance; and

WHEREAS, the office of planning has worked with the Mayor's office to streamline the variance and special exception process which efforts have identified changing the deferral fee to a flat fee based on zoning district, similar to the application fee, so as to create more predictability for applicants and allow staff to the Board to more quickly process deferred cases; and

WHEREAS, the variance and special exception application and deferral fees should be set forth in a stand-alone section of the land development code as opposed to section 6-4028 dealing more specifically with appeals to the Board.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA ORDAINS AS FOLLOWS:

Section 1. That Section 6-4028 of the Land Development Code and which reads as follows:

6-4028. Appeals to the Board

Appeals to the board may be taken by any person aggrieved or by an officer, department, board, or bureau of the city affected by any decision of the administrative officer. 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 notice filed with the board shall be accompanied by a filing fee which shall be credited to the general revenue fund of the city. The amount of such fee shall be determined from the following schedule:

- (1) For appeals which allege that a decision of an administrative officer is in error, each appeal, without regard to the zoning district in which the subject property lies, shall be \$250.00.
- (2) Variance applications. Variance application fees are based on the zoning district in which the subject property is located.

District	Fee
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-4B, R-5, LD (landmark district), HD (historic district)	\$100.00
MR, SECTORS, 1-8 RG, SECTORS, 1-6	500.00
R-LC, O-I, C-1, C-2, C-3, C-4, C-5, I-1, I-2 MRC-1, MRC-2, MRC-3, LW, NC, SPI	625.00

- (3) Special exception applications. Special exceptions application fees are based on the zoning district in which the subject property is located.

District	Fee
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-4B, R-5, LD (landmark district), HD (historic district)	\$100.00
MR, SECTORS, 1-8 RG, SECTORS, 1-6	500.00
R-LC, O-I, C-1,1 C-2, C-3, C-4, C-5, I-1, I-2 MRC-1, MRC-2, MRC-3, LW, NC, SPI	625.00

- (4) Any applicant or appellant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and

for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral the actual costs to be incurred by the bureau of planning in re-mailing and re-advertising the new hearing date(s) in accordance with the zoning ordinance.

- (5) Any person appealing from the decision of the board to the Superior Court shall pay the actual costs incurred by the city in causing the board's hearing(s) on the appeal to be transcribed as contemplated in the Zoning Ordinance. The board, through its secretary, shall communicate to the appellant the actual costs and the requirement and manner in which to pay same. The board shall not be required to file the transcript of the hearing(s) before it until such time as the appellant pays such costs.

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. 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 and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Is amended to read as follows:

6-4028. Appeals to the Board

Appeals to the board may be taken by any person aggrieved or by an officer, department, board, or bureau of the city affected by any decision of the administrative officer. 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 notice filed with the board shall be accompanied by a filing fee which shall be credited to the general revenue fund of the city. The amount of such fee shall be determined from the following schedule:

- (1) For appeals which allege that a decision of an administrative officer is in error, each appeal, without regard to the zoning district in which the subject property lies, shall be \$250.00.
- (2) Any appellant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral to pay the actual costs to be incurred by the bureau of planning in re-mailing and re-

advertising the new hearing date(s) in accordance with the zoning ordinance. The board, in its discretion, is authorized not to hear the appeal on the date to which the appeal was deferred in the event the deferral fee is not paid prior to sounding of the case.

- (3) Any person appealing from the decision of the board to the Superior Court shall pay the actual costs incurred by the city in causing the board's hearing(s) on the appeal to be transcribed as contemplated in the Zoning Ordinance. The board, through its secretary, shall communicate to the appellant the actual costs and the requirement and manner in which to pay same. The board shall not be required to file the transcript of the hearing(s) before it until such time as the appellant pays such costs. 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. 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 and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Section 2: That a new Section 6-4028.1 of the Land Development Code and entitled “variance and special exception fees” is created and which shall read as follows:

6-4028.1 Variance and Special Exception Fees

The secretary to the board shall charge as follows:

- (1) *Variances.* Variance application and deferral fees are based on the zoning district in which the subject property is located according to the following schedule:

District	Application Fee	Deferral Fee
R, LD, HD	\$100	\$65
RG, MR	\$500	\$170
R-LC, O-I, C, I, MR-C, LW, NC, SPI	\$625	\$ 200

(2) Special exceptions. Special exceptions application and deferral fees are based on the zoning district in which the subject property is located according to the following schedule:

District	Application Fee	Deferral Fee
R, LD, HD	\$100	\$65
RG, MR	\$500	\$170
R-LC, O-I, C, I, MR-C, LW, NC, SPI	\$625	\$ 200

Any variance or special exception applicant requesting a deferral, whether in writing prior to the hearing or in person at the hearing, of any advertised matter before the board and for which the board grants the deferral of such matter to a later hearing date shall be required within three business days of the hearing at which the board grants the deferral to pay the deferral fee. The board, in its discretion, is authorized not to hear the appeal on the date to which the appeal was deferred in the event the deferral fee is not paid prior to sounding of the case.