

**THE TOWN OF GALENA
ORDINANCE NO. 2026-03**

AN ORDINANCE OF THE TOWN OF GALENA AMENDING ARTICLE XV, SPECIAL EXCEPTIONS, VARIANCES, APPEALS; PART I, SPECIAL EXCEPTIONS; SECTION 101 (PROCEDURES SPECIAL EXCEPTION) OF THE TOWN OF GALENA ZONING ORDINANCE TO CORRECT THE FINDINGS OF FACT CRITERIA BY REMOVING ERRONEOUS VARIANCE STANDARDS AND CLARIFYING THE APPROPRIATE SPECIAL EXCEPTION REVIEW PROCESS.

WHEREAS, the Town of Galena Zoning Ordinance currently identifies Special Exceptions (SE) as a mechanism for authorizing certain uses in specified districts, subject to review by the Board of Appeals; and

WHEREAS, Section 101 of Article XV, Part I, currently contains findings of fact criteria in subsection 8 that erroneously incorporate standards applicable to variances (such as practical difficulties, unusual property characteristics, and self-created hardships), rather than the appropriate standards for special exceptions focused on compatibility, neighborhood impact, and consistency with the Comprehensive Plan; and

WHEREAS, the Mayor and Council find it necessary to correct this error to ensure the proper administration of special exceptions, protect the integrity of the zoning process, and align the ordinance with standard zoning principles that distinguish special exceptions from variances; and

WHEREAS, the Mayor and Council wish to clarify the findings of fact for special exceptions to promote fair, consistent, and legally sound decision-making by the Board of Appeals; and

WHEREAS, the Mayor and Council are authorized by §4-204 of the Land Use Article of the Annotated Code of Maryland to amend, supplement, modify or repeal sections of the Town zoning ordinance; and

WHEREAS, the Mayor and Council duly adopted its current Zoning Ordinance on June 17, 2020 (Ord. 2020-01) as amended; and

WHEREAS, Section 119 of the Zoning Ordinance states that the regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after the Mayor and Council shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard; and

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WHEREAS, Section 120 of the Zoning Ordinance states that proposed amendments may be originated by the Mayor and Council, Planning Commission, or the owner(s) of the property(s) for which a zoning change is sought, and that after submittal to the Zoning Coordinator, the proposed amendments shall be submitted for review by the Planning Commission which shall submit its recommendations to the Mayor and Council after holding a public hearing conducted by the Planning Commission; and

WHEREAS, pursuant to § 4-203 of the Land Use Article of the Annotated Code of Maryland, a legislative body shall hold at least one public hearing on a proposed zoning regulation or boundary at which parties in interest and citizens have an opportunity to be heard, and the legislative body shall publish notice of the time and place of the public hearing, together with a summary of the proposed zoning regulation or boundary, in at least one newspaper of general circulation in the local jurisdiction once each week for two (2) successive weeks, and the legislative body shall publish the first notice of the hearing at least fourteen (14) days before the hearing, and the zoning regulation or boundary may not become effective until ten (10) days after the hearing or hearings; and

WHEREAS, the Town Charter in Section 308 provides that no ordinance shall be passed at the meeting at which it is introduced, and at any regular or special meeting of the Council held not less than six (6) nor more than sixty (60) days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date, but in cases of emergency, the above requirement may be suspended by the affirmative votes of four (4) members of the Council, and every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto; and

WHEREAS, the Town Charter in Section 308 further provides that a fair summary of each ordinance shall be published at least twice (2) in a newspaper or newspapers having general circulation in the municipality and that an emergency ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the Mayor or passed over the Mayor's veto by the Council; and

WHEREAS, the Mayor and Council held a duly noticed public hearing on this Zoning Amendment Application on _____.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of Galena, Maryland that Article XV, Part I, Section 101 of the Zoning Ordinance is hereby amended to read as follows:

* * *

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THE TOWN OF GALENA
ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS
PART I. SPECIAL EXCEPTIONS

* * *

SECTION 101. PROCEDURES FOR SPECIAL EXCEPTION

1. SPECIAL EXCEPTIONS (SE) ARE LISTED UNDER ARTICLE III, DISTRICTS AND DISTRICT MAPS. [~~Special Exceptions (SE) will be listed under Article III, Districts and District Maps.~~] SPECIFIC SUPPLEMENTARY USE REGULATIONS APPLICABLE TO EACH SPECIAL EXCEPTION ARE SET FORTH IN ARTICLE V, DISTRICT REGULATIONS, PART III, SUPPLEMENTARY USE REGULATIONS. [~~Specific supplementary use regulations are listed in Article V, District Regulations, Part III Supplementary Use Regulations.~~]

2. THE BOARD OF APPEALS, IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS OF THIS ORDINANCE, MAY AUTHORIZE BUILDINGS, STRUCTURES, AND USES AS SPECIAL EXCEPTIONS IN THE SPECIFIC INSTANCES AND PARTICULAR DISTRICTS WHERE THEY ARE PERMITTED, PROVIDED THAT:
 - A. THE LOCATION IS APPROPRIATE AND CONSISTENT WITH THE GALENA COMPREHENSIVE PLAN;

 - B. THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE WILL NOT BE ADVERSELY AFFECTED;

 - C. NECESSARY SAFEGUARDS WILL BE PROVIDED TO PROTECT SURROUNDING PROPERTY, PERSONS, AND NEIGHBORHOOD VALUES; AND

 - D. THE PROPOSAL COMPLIES WITH ANY ADDITIONAL STANDARDS OR CONDITIONS SET FORTH FOR THAT SPECIFIC SPECIAL EXCEPTION IN ARTICLE V, PART III. [~~The Board of Appeals in accordance with the procedures and standards of this Ordinance may authorize buildings, structures, and uses as special exceptions in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided to protect surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are specified as a condition of approval.~~] UNLESS OTHERWISE SPECIFIED IN THIS ORDINANCE OR AS A CONDITION OF APPROVAL, THE HEIGHT, YARD, LOT AREA, DESIGN, ENVIRONMENTAL, AND SIGN REQUIREMENTS SHALL BE THE SAME AS FOR

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PERMITTED USES IN THE DISTRICT IN WHICH THE SPECIAL EXCEPTION IS LOCATED. [~~Unless otherwise specified in this Article or as a condition of approval, the height, yard, lot area, design, environmental, and sign requirements shall be the same as other uses in the district in which the special exceptions are located.~~]

3. THE APPLICATION AND FEE FOR A SPECIAL EXCEPTION SHALL INCLUDE A SITE PLAN TOGETHER WITH SUCH DATA AND INFORMATION AS MAY BE REQUIRED TO DETERMINE THE NATURE OF THE PROPOSED USE AND ITS EFFECT ON THE COMPREHENSIVE PLAN, THE NEIGHBORHOOD, AND SURROUNDING PROPERTIES. [~~The application and fee for a special exception shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use, and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.~~]
4. UPON RECEIPT OF A COMPLETED APPLICATION, THE ZONING COORDINATOR SHALL SCHEDULE A REVIEW BY THE PLANNING COMMISSION. [~~Upon receiving a completed application for a special exception, the Zoning Coordinator shall schedule a review by the Planning Commission.~~] THE TOWN SHALL NOTIFY THE APPLICANT OF THE DATE AND TIME OF THE MEETING. [~~The Town shall notify the applicant of the date and time of the meeting.~~] THE PLANNING COMMISSION SHALL FORWARD ITS RECOMMENDATION TO THE BOARD OF APPEALS. [~~The Planning Commission shall send its recommendation to the Board of Appeals.~~] THE PLANNING COMMISSION MAY RECOMMEND THAT ADDITIONAL EXPERTISE IS WARRANTED.
5. AFTER RECEIVING THE PLANNING COMMISSION'S RECOMMENDATION AND ANY COMMENTS FROM THE ZONING COORDINATOR, THE ZONING COORDINATOR SHALL SCHEDULE THE SPECIAL EXCEPTION APPLICATION FOR REVIEW BY THE BOARD OF APPEALS. [~~After receiving comments from the Planning Commission and the Zoning Coordinator shall schedule the special exception application for review by the Board of Appeals.~~]
6. NOTICE — THE TOWN SHALL NOTIFY THE APPLICANT OF THE DATE AND TIME OF THE BOARD OF APPEALS MEETING. AT LEAST FIFTEEN (15) DAYS BEFORE THE HEARING, THE TOWN SHALL:
 - A. PUBLISH NOTICE IN THE LOCAL NEWSPAPER;
 - B. POST THE PROPERTY; AND
 - C. MAIL NOTICE TO ADJACENT PROPERTY OWNERS USING THE MOST RECENT ADDRESS ON RECORD. [~~Notice—The Town shall notify the applicant of the date and time of the Board of Appeals meeting. At least fifteen (15) days~~

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~~before the hearing, a public hearing shall be advertised in the local paper. The town shall post the property. Notices shall be sent to adjacent property owners using the most recent address found in the records.]~~

7. THE BOARD OF APPEALS MAY RETAIN SUCH EXPERTS AS IT DEEMS NECESSARY TO PROVIDE ADVICE AND ASSIST IN ITS DECISION-MAKING. ~~[The Board of Appeals may hire expertise, as shall be needed, to provide advice and assist in its decision-making.]~~

8. FINDINGS OF FACT: IN ORDER TO GRANT A SPECIAL EXCEPTION, THE BOARD OF APPEALS MUST FIND THAT ALL OF THE FOLLOWING ARE SATISFIED:

a. The special exception will not cause a substantial detriment to adjacent or neighboring property.

b. The special exception will not change the character of the neighborhood or district.

c. The special exception is consistent with the Comprehensive Plan and the general intent and purposes of this Ordinance.

~~[d. That the practical difficulty or other injustice was caused by the following:-~~

~~1. Some unusual characteristics of the size or shape of the property.-~~

~~2. Extraordinary topographical or other condition of the property.-~~

~~3. The use or development of the property is immediately adjacent to the property.-~~

~~e. That the practical difficulty or other injustice was not caused by the applicants' own actions.-~~

~~f. The Board of Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.-~~

~~g. The Board of Appeals may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.]~~

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9. DECISION AND ORDER. EACH CASE SHALL BE DECIDED, AND A WRITTEN DECISION AND ORDER ISSUED, NO LATER THAN FORTY-FIVE (45) DAYS AFTER THE HEARING IS CONCLUDED. ~~[Each case shall be decided, and a decision and order issued no later than forty-five (45) days after the hearing is concluded.]~~ THE DECISION AND ORDER GRANTING OR DENYING THE SPECIAL EXCEPTION SHALL BE SIGNED BY THE CHAIRMAN OF THE BOARD OF APPEALS AND SHALL CONTAIN A SUMMARY OF THE HEARING TESTIMONY, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND THE FINAL ORDER. ~~[The decision and order granting or denying the special exception shall be in writing and shall be signed by the Chairman of the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order.]~~ THE ZONING COORDINATOR SHALL MAIL A COPY OF THE DECISION TO THE APPLICANT. THE DECISION AND ORDER SHALL BE MADE PART OF THE PUBLIC RECORD.

* * *

AND BE IT FURTHER ORDAINED AND ENACTED, that a fair summary of this ordinance shall be published at least twice (2) after the date of passage in a newspaper or newspapers having general circulation in the Town.

HAVING BEEN DULY ADOPTED on the _____ day of _____, 2026 to be effective at the expiration of twenty (20) calendar days following approval on the ____ day of _____ 2026, we hereby affix our signatures.

THE TOWN OF GALENA

Tyler J. Carpenter, Mayor

Sarah E. Merrell, Councilmember

Cheryl A. Richwine, Councilmember

John T. Carroll, Jr., Councilmember

John W. Duhamell, Jr., Councilmember

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ATTEST:

Marisa R. Pisapia, Town Administrator

APPROVED AS TO FORM:

Kevin J. Best, Town Attorney

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