

ZONING ORDINANCE AMENDMENT

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA, TO PROVIDE FOR HEALTH, SAFETY, MORALITY, AND WELFARE RELATED LIMITATIONS ON DENSITY IN RESIDENTIAL ZONING DISTRICTS, TO PROVIDE FOR AN APPLICATION WITHDRAWAL PROCEDURE, TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

WHEREAS the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing body may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989 pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use; and

WHEREAS, The City finds that the regulations contained in this Ordinance are necessary for the purposes of implementing its comprehensive plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Ordinance has been prepared and considered in accordance with the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., and

WHEREAS, this Ordinance is necessary for the purposes of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of the City of Dawsonville; lessening overcrowding in residential areas; providing adequate light and air; avoiding inadequate light and air; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; improving the aesthetic appearance of the City of Dawsonville; conserving the value of buildings; and encouraging the most appropriate use of land and buildings throughout the City of Dawsonville in accordance with its duly adopted comprehensive plan;

NOW THEREFORE, the governing body of the City of Dawsonville, Georgia, does hereby ordain, enact and thereby incorporate into the City Code of Dawsonville, Georgia, this ordinance and all of its sections as set forth below:

SECTION ONE: Repeal of Existing Article X

Article X of the City of Dawsonville Land Use and Zoning Ordinance is hereby deleted in its entirety.

SECTION TWO: Adoption of New Article X

A new Article X of the City of Dawsonville Land Use and Zoning Ordinance is hereby adopted, and shall provide as follows:

Section 1001. Purpose And Intent.

The R-3, Single-Family medium density (up to 3 units per acre) in areas served by public water and sanitary sewer.

Section 1002. Permitted Uses.

1. Any use permitted in the R-2, Single-Family Residential District, as specified in Section 902. of these regulations and subject to the same restrictions, except as indicated in Article XX provided both water and sewer are available (otherwise the lot size would be governed by the requirements of the State of Georgia Health Department Rules/Regulations).

2. Personal care homes, homes for the elderly, boarding homes, lodging houses and dormitories serving ten (10) residents or less, provided that no such buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

3. Day care centers, kindergartens and nursery schools serving twelve (12) or less persons, provided that no such principal building shall be located closer than one hundred (100) feet to a R-1 District boundary, that all applicable regulations of the Georgia Department of Human Resources regarding fencing and play area are met, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

Section 1003. Conditional Uses.

1. Personal care homes, homes for the elderly, boarding homes, lodging houses and dormitories serving more than ten (10) residents, provided that no such buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

2. Day care centers, kindergartens and nursery schools serving more than twelve (12) persons, provided that no such principal buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, that all applicable

regulations of the Georgia Department of Human Resources regarding fencing and play area are met, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

3. Convalescent homes, nursing homes, group homes, rehabilitation centers, sanitariums and similar institutionalized residential facilities involving professional care and treatment, provided such use is located on property fronting an arterial or collector street, that no such dwelling is located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

Section 1004. Density Calculation.

No more than 20% of flood plain or other unusable land from a development prospective may be used to calculate allowed density.

SINGLE FAMILY RESIDENTIAL DISTRICT: R-3

R-3 Single-Family Residential District	Max. # of Units	Minimum Lot Size	Front Setback	Side Setback	Rear Setback	Minimum sq. footage	Maximum Bldg. Height
Single Family	3	75'x100'	30'	10'	20	1300'	35'

SECTION THREE: Adoption of New Article X.1

A new Article X.1 of the City of Dawsonville Land Use and Zoning Ordinance is hereby adopted, and shall provide as follows:

Section 1001. Purpose And Intent.

The R-6, Multiple-Family high density (up to 6 units per acre) in areas served by public water and sanitary sewer.

Section 1002. Permitted Uses.

1. Single-family attached dwellings (townhouses), provided that no dwelling is located closer than fifty (50) feet to a R-1 District boundary, subject to the requirements of Section 1004.
2. Two family dwellings (duplexes).
3. Residential condominiums, provided that no dwelling is located closer than fifty (50) feet to a R-1 District boundary, subject to the requirements of Section 1005.
4. Apartments, provided that no dwelling is located closer than one hundred (100) feet to a R-1 District boundary.

5. Personal care homes, homes for the elderly, boarding homes, lodging houses and dormitories serving ten (10) residents or less, provided that no such buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

6. Day care centers, kindergartens and nursery schools serving twelve (12) or less persons, provided that no such principal building shall be located closer than one hundred (100) feet to a R-1 District boundary, that all applicable regulations of the Georgia Department of Human Resources regarding fencing and play area are met, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

Section 1003. Conditional Uses.

1. Personal care homes, homes for the elderly, boarding homes, lodging houses and dormitories serving more than ten (10) residents, provided that no such buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

2. Day care centers, kindergartens and nursery schools serving more than twelve (12) persons, provided that no such principal buildings shall be located closer than one hundred (100) feet to a R-1 District boundary, that all applicable regulations of the Georgia Department of Human Resources regarding fencing and play area are met, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

3. Convalescent homes, nursing homes, group homes, rehabilitation centers, sanitariums and similar institutionalized residential facilities involving professional care and treatment, provided such use is located on property fronting an arterial or collector street, that no such dwelling is located closer than one hundred (100) feet to a R-1 District boundary, and provided a copy of the approved state license or permit is filed with the Building Official prior to the issuance of a Certificate of Occupancy.

Section 1004. Townhouse Development Regulations.

All developments containing fee-simple townhouses shall conform to the following requirements:

1. Lots - Each townhouse shall be located on its own lot of record, and subdivision plat approval shall be required in accordance with the City of Dawsonville Regulations.

2. Streets - All streets within a townhouse development shall be built to City specifications as provided in the City of Dawsonville Development Regulations and dedicated to the City.

3. Parking - Insofar as practicable, off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

4. All structures will be constructed with a non-flammable brick or masonry firewall between units and extending two feet above the roofline. A fire retardant product may be used in place of the firewall.

Section 1005. Residential Condominium Development Regulations

All developments containing residential condominiums shall conform to the following requirements:

1. Site plan approval by the Governing Body shall be required.
2. Condominium developments shall meet all applicable state laws, including the Georgia Condominium Act.
3. Proposed condominium bylaws shall be submitted with the application for site plan approval. Format and content of the by-laws and declarations are subject to the approval of the City Attorney.
4. Parking - Insofar as practicable, off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

Section 1006. Density Calculation.

No more than 20% of flood plain or other unusable land from a development prospective may be used to calculate allowed density.

MULTIPLE FAMILY RESIDENTIAL DISTRICT: R-6

R-6 Multiple-Family Residential District	Max. # of Units	Minimum Lot Size	Front Setback	Side Setback	Rear Setback	Minimum sq. footage	Maximum Bldg. Height
Duplex	4	100x100	30'	10'	20'	1100'	35'
Townhouses	6	28'x 100'	30'	10'	20'	1200'	35'
Condominium	6		30'	10'	20'	1100'	35'

Apartments	6		30'	10'	20'	700'	35'
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SECTION FOUR: Adoption of New Section 2505.1 of Article XXV

A new Section 2505.1 of Article XXV of the City of Dawsonville Land Use and Zoning Ordinance is hereby adopted, and shall provide as follows:

Section 1001. Withdrawal & Postponement Procedure

1. Withdrawal of Applications before consideration by the Planning Commission
 - a. In the event that an applicant for a zoning change desires to withdraw an application prior to the date the City submits notice of the pending zoning decision to the legal organ, the applicant may do so upon written request received prior to said date by the Planning Director or his designee.
 - b. In the event that an applicant for a zoning change desires to withdraw an application after the date that the city submits notice of the pending zoning decision to the legal organ, the request to withdraw must be in writing, must be received by the Planning Director or his designee, must provide the reason for the withdrawal, and further:
 - i. if the request to withdraw is received in writing by the Planning Director or his designee at least five days prior to the date of the scheduled public hearing, then for good cause shown, as determined in the sole discretion of the Planning Director, the withdrawal may be granted without prejudice to the right to re-apply for a zoning change on the applicable tract of land. If the Planning Director determines that the withdrawal is not for good cause, then the withdrawal will prejudice the right to re-apply for a zoning change on the applicable tract for a period of six (6) months.
 - ii. if the request to withdraw is received in writing by the Planning Director or his designee less than five days prior to the date of the scheduled public hearing, then the withdrawal will prejudice the right to re-apply for a zoning change on the applicable tract for a period of six (6) months.
 - c. Application fees of withdrawn applications are not refundable.
2. Withdrawal of Applications after consideration by the Planning Commission

- a. In the event that an applicant for a zoning change desires to withdraw an application after the application has been considered by the Planning Commission, the applicant may do so upon written request received prior to the date of the scheduled hearing before the Governing Body.
 - b. All withdrawals of applications after consideration by the Planning Commission will prejudice the right to re-apply for a zoning change for a period of six (6) months.
 - c. Application fees of withdrawn applications are not refundable.
3. Postponement of Consideration by the Planning Commission or Governing Body
- a. In the event that an applicant for a zoning change desires to postpone the decision on an application prior to the date the City submits notice of the pending zoning decision to the legal organ, the applicant may do so upon written request received before said date by the Planning Director or his designee.
 - b. In the event that an applicant for a zoning change desires to postpone a decision on an application after the date that the City submits notice of the pending zoning decision to the legal organ, the applicant may do so:
 - i. upon written request received by the Planning Director or his designee providing the reason for the requested postponement, and
 - ii. upon payment of the postponement fee, which shall be equal to the application fee for the requested change, to the City. By way of illustration, if the application fee for a requested zoning change is \$300.00, and the applicant makes a request to postpone the decision of the Planning Commission or Governing Body after the date that the city submits notice of the pending zoning decision to the legal organ, a \$300.00 postponement fee must be paid to secure the requested postponement.
 - c. Only one postponement may be secured per application before the decision by the Planning Commission, and only one postponement may be secured per application before the decision by the Governing Body.
 - d. All postponed applications shall be placed on the agenda for the next regularly scheduled meeting of the Planning Commission or the Governing Body, depending on the hearing postponed.

SECTION FIVE: Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION SIX: Severability

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

SECTION SEVEN: Effective Date

The effective date of this Ordinance shall be the day this Ordinance is adopted by the Mayor and City Council of the City of Dawsonville, Georgia.

Adopted and Ordained this 5th day of June, 2006.

CITY OF DAWSONVILLE, GEORGIA

Joe Lane Cox, Mayor

Jonathan Cox, Council Member

Linda Grant, Council Member

Mike Sosebee, Council Member

Mike Wilson, Council Member

Attest:

Kim Cornelison, City Clerk