

**ORDINANCE
AMENDMENT
NO. OA-2023-15**

CHAPTER 44 – Zoning

ARTICLE II. – ADMINISTRATION AND ENFORCEMENT

DIVISION 1. – GENERALLY

SECTIONS 44-23 through 44-33

DIVISION 2. – 44-53, 44-56, 44-57

ARTICLE III. – DISTRICT REGULATIONS

DIVISION 2. – RESIDENTIAL DISTRICTS

SECTIONS 44-138 and 44-141

WHEREAS, The Charter of the City of Dallas, Georgia does allow the Mayor and Council to adopt Ordinances to provide for rules and regulations concerning zoning and land use within the City of Dallas, Georgia and for the safety, health, and welfare of the citizens of the City of Dallas, Georgia; **AND**

WHEREAS, The Charter of the City of Dallas, Georgia does allow the Mayor and the City Council, by ordinance, to regulate zoning in the City of Dallas; **AND**

WHEREAS, The Mayor and the City Council of Dallas, Georgia considered the proposed amendment at a duly noticed public meeting on _____, 2023; **AND**

WHEREAS, The Mayor and the City Council of Dallas, Georgia have determined that this amendment is in the best interest of the City’s residences for their safety, health and welfare; **AND**

THEREFORE, be it ordained by the Mayor and the City Council of Dallas, Georgia:

SECTION I.

That CHAPTER 44 – Zoning, ARTICLE II. – ADMINISTRATION AND ENFORCEMENT, DIVISION 1. – GENERALLY, SECTIONS 44-23 through 44-33 are amended as follows:

DIVISION 1. – GENERALLY

Sec. 44-23. Zoning enforcement officer.

- (a) The provisions of this chapter shall be administered and enforced by the ~~building official~~ community development director of the city who is hereby given the authority to perform these functions. The community development director shall serve as the zoning enforcement officer. The zoning enforcement officer and/or his designee duties shall include:
- (1) Receiving applications;
 - (2) Inspecting premises; ~~and~~
 - (3) ~~Issuing building permits and certificates of occupancy for uses and structures that meet the requirements of this chapter.~~
- (b) The provisions of the ordinance shall be administered by the zoning enforcement officer and enforced in coordination with the city marshal, with the powers provided in the laws of the State of Georgia and in the chapter and resolutions of the City of Dallas. For the propose of serving citations for violations of this ordinance, such citations may be referred to the City Marshal's Bureau of the City of Dallas for service.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-24. – Reserved

Sec. 44-25. – Reserved

Sec. 44-26. – Reserved

Sec. 44-27. – Reserved

Sec. 44-28. Denial of certificate of occupancy.

A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter, or unless the building, as finally constructed, complies with the sketch or plan upon which the building permit was issued. The zoning enforcement officer shall state in writing the reasons for denying such certificate of occupancy.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-29. Records of applications and ~~certificates~~ Plats.

Records of applications ~~for building permits, records of and plats and plans in connection with said permits, and records of all occupancy certificates and denials~~ shall be kept on file in the office of the ~~building inspector~~ community development director and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-30. Remedies.

In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation to this chapter, the ~~building inspector~~ community development director, or any other appropriate city authority or any person who would be damaged by such violation, in addition to other remedies, may institute injunction mandamus, or other appropriate action in proceeding to prevent the violation in the case of each building or use of land.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-32. Violations of article.

Any action or inaction which violates the provisions of this article ~~or the requirements of an approved permit~~, may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described in sections 44-34 shall not prevent such equitable relief.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-33. Notice.

If the city determines that an applicant or other responsible person has failed to comply with the terms and conditions of ~~a permit~~ or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person.

Where a person is engaged in activity covered by this article without having first secured ~~a permit approval~~ therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance ~~with the permit, the stormwater management plan or~~ of this article and the date for the completion of such remedial action;
- (5) A statement of the penalties that may be assessed against the person to whom the notice of violation is directed; and

- (6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 30 days after the notice of violation; except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient.

(Ord. No. OA-2023-04 , 7-10-2023)

That CHAPTER 44 – Zoning, ARTICLE II. – ADMINISTRATION AND ENFORCEMENT, DIVISION 2. – BOARD OF ZONING APPEALS, SECTIONS 44-53, 44-56 and 44-57 are amended as follows:

Sec. 44-53. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

- (1) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the ~~building inspector~~ zoning enforcement officer in the enforcement of this chapter.
- (2) Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of zoning appeals that all of the following conditions exist:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
 - b. The application of this chapter to this particular piece of property would create an unnecessary hardship.
 - c. Such conditions are peculiar to the particular piece of property involved.
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this chapter.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-56. Stay of proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the ~~building inspector~~ community development director certifies to the board of zoning appeals after the notice of appeal shall have been filed with ~~him~~ the community development director, that by reason of facts stated in the certificate a stay would, in their 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 of zoning appeals or by a court of record on application, on notice to the ~~building inspector~~ community development director, and on due cause shown.

(Ord. No. OA-2023-04 , 7-10-2023)

Sec. 44-57. Decisions.

In exercising its powers, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the ~~building inspector~~ community development director ~~and may issue or direct the issuance of a building permit.~~ The concurring vote of two members of the board shall be necessary to reverse any order, requirements, decision or determination of the ~~building inspector~~ community development director, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation of this chapter. On all appeals, applications and other matters brought before the board of zoning appeals, said board shall inform, in writing, all the parties involved of its decisions and the reasons therefor. Recourse from a decision by the board of zoning appeals shall be to a court of competent jurisdiction in such matters.

That CHAPTER 44 – ZONING, ARTICLE III. – DISTRICT REGULATIONS, DIVISION 2. – RESIDENTIAL DISTRICTS, SECTION 44-138 is amended as follows:

Sec. 44-138. R-2C single-family residential district—Conservation.

- (a) Single-family dwellings except for manufactured homes. Total density limitation of three single-family dwellings per acre.
 - (1) Residential developments shall conserve and protect a minimum of 30 percent of the gross tract area as open space.
 - (2) The open space shall be provided in conformance with the requirements of Chapter 34, Article III, Section 34-59 Open Space.

- (b) Churches and similar places of worship and their customary related uses.
- (c) Public and private schools offering general education courses.
- (d) Municipal, county, state, federal and other public uses, including parks and playgrounds.
- (e) Accessory buildings provided such shall be permitted only in a rear yard and shall not be less than ten feet from any property line. No accessory buildings shall contain independent kitchen facilities.
- (f) Nursery schools (day care centers) and kindergartens, provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor area shall be enclosed by a fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-1 residential district.
- (g) A business, occupation or profession carried on within a single-family residential dwelling by the resident thereof that is designated as a home occupation shall conform to the following criteria:
 - (1) The occupation carried on within the dwelling unit shall be restricted to the heated floor area of the dwelling.
 - (2) No product shall be sold on the premises and all home occupation activities shall be conducted entirely within the dwelling. This shall not prohibit sales by telephone when the delivery of merchandise is to take place elsewhere.
 - (3) The home occupation use carried on within the dwelling unit shall not occupy more than 25 percent of the heated floor area of the dwelling unit, and said home occupation use shall be clearly incidental and subordinate to the use of the dwelling for residential purposes.
 - (4) There shall be no external display of products or storage of equipment or other externally visible evidence whatsoever of the occupation, business or profession.
 - (5) No sign advertising a home occupation exceeding two square feet is permitted, including those mounted inside windows and doors that are visible from a public right-of-way or a neighboring property line. No sign shall be internally or externally illuminated.
 - (6) Any person who conducts a home occupation shall be a member of the family residing on the premises, shall take substantially all of their overnight lodging at the dwelling, shall store substantially all of their personal belongings which are used in normal daily life in the dwelling,

and shall use the address of the subject dwelling as their address for legal purposes such as voting and the payment of personal property taxes.

- (7) No equipment or process shall be used in that creates smoke, dust, odor, fumes, glare, noise, vibration, electrical or electronic disturbance detectable to the normal senses at the lot line or beyond.
- (8) There shall be no stock of goods or materials on the premises with the exception of literature and brochures appurtenant to the occupation, business or profession. Said literature and brochures shall remain in that part of the residence designated for home occupation purposes.
- (9) There shall be no chemical, mechanical or electrical equipment on the premises other than that normally found in a purely domestic residence.
- (10) Contact with customers and clients shall be made by telephone or mail. No business vehicle larger than a van, or pickup truck shall be permitted to remain on the premises other than a vehicle owned by the resident.
- (11) There shall be no assembly or group instructions in connection with the home occupation with the exception of child care which can be conducted with a maximum of five children at a time. Other individual instruction on a one-on-one basis is permitted.
- (12) The above listed requirements of a home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided that this exception shall not extend to allow the operation of a commercial greenhouse or nursery or the existence of stands or booths for display of said produce.
- (13) Any business, occupation or profession, the operation of which does not meet the aforementioned requirements of a home occupation shall not be interpreted to be a home occupation despite the fact that it might attempt to operate in a single-family residence.

(Ord. No. OA-2023-04 , 7-10-2023)

That CHAPTER 44 – ZONING, ARTICLE III. – DISTRICT REGULATIONS, DIVISION 2. – RESIDENTIAL DISTRICTS, SECTION 44-141 is struck in its entirety and replaced with:

Sec. 44-141. R-4 mixed use/residential district high-density (new district).

(a) The R-4 residential district is only appropriate within the Downtown Development District #1. The Downtown Development District #1 shall be any and all properties located within the boundaries of the roadways listed below and also any

parcel with frontage along or property adjacent to the public right-of-way on either side of the roadways listed below and shown on the official zoning map of the city:

- (1) East Memorial Drive from Main Street to Lester Drive.
- (2) Merchants Drive from Lester Drive to Nathan Dean Blvd.
- (3) Nathan Dean Blvd. from Merchants Drive to Henry Y Holland Drive.
- (4) Henry Y Holland Drive from Nathan Dean Blvd. to Hardee Street.
- (5) Hardee Street from Henry Y Holland Drive to West Foster Avenue.
- (6) West Foster Avenue from Hardee Street to Main Street.
- (7) Main Street from West Foster Avenue to South Johnston Street.
- (8) South Johnston Street from Main Street to West Cooper Avenue.
- (9) West Cooper Avenue from South Johnston Street to Hood Street.
- (10) Hood Street from West Cooper Avenue to West Griffin Street.
- (11) West Griffin Street from Hood Street to South Street.
- (12) South Street from West Griffin Street to Victory Drive.
- (13) Victory Drive from South Street to Griffin Street.
- (14) Griffin Street from Victory Drive to West Memorial Drive.
- (15) West Memorial Drive from Griffin Street to Main Street.
- (16) Grove Park Avenue from South Johnston Street to end.

SECTION II. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remainder of this ordinance or any part thereof.

SECTION IV EFFECTIVE DATE. Following passage and approval of this ordinance by the Mayor and City Council, this ordinance shall be effective on and after _____, 2023.

**SO SHALL IT BE ORDAINED BY THE MAYOR AND COUNCIL OF THE
CITY OF DALLAS, GEORGIA, THIS THE _____ DAY OF
_____, 2023.**

L. James Kelly, Mayor

James R. Henson, Councilmember

Michael G. Cason, Councilmember

Cooper Cochran, Councilmember

Nancy R. Arnold, Councilmember

Christopher B. Carter, Councilmember

Leah Alls, Councilmember

ATTEST:

Tina Clark, City Clerk of the City of Dallas, GA

Date