

DATE: June 20, 2017
TO: Mayor and City Council
FROM: Planning Director
SUBJECT: Zoning Ordinance Amendment
Article 4, Article 7, and Article 14 related to accessory uses, fences,
walls, and administrative processes.



SUGGESTED ACTION

Approve amendments to Article 4, Article 7, and Article 14 as discussed.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a scheduled public hearing on 6/19/17. No one spoke in opposition or support of the proposal.

Planning Commission recommends APPROVAL of the amendment to Article 4, Article 7, and Article 14 as presented by Staff on 6/19/17. (5-0)

SUMMARY OF SIGNIFICANT CHANGES

Article 4, Section 407 and Table 4.3 – Restrictions on Accessory Uses

- Driveways are currently required to be set back a minimum of five feet from the property line. The five foot setback is sometimes difficult for developers and homeowners to satisfy depending on lot configuration (particularly lots within a cul-de-sac). *Gwinnett County allows driveways to be installed up to the property line.*
- Minor accessory buildings larger than 120 square feet are currently required to be constructed of wood, fiber-cement, brick, or stone siding. Metal siding on these types of smaller sheds is allowed and commonly found on nearby properties in Gwinnett County and neighboring cities.
- Accessory buildings up to 240 square feet are considered minor accessory buildings and are still required to be finished (*color/texture*) to match the exterior of the principal building.
- Accessory buildings over 240 square feet are considered major accessory buildings and must be constructed of wood, fiber-cement, brick, or stone siding, and finished to match the principal building's exterior.

Article 7, Section 700 – Fences and Walls and Article 14 – Administration, Enforcement, Penalties, and Remedies

- An administrative variance is currently required for fences located in the front yard. Staff recommends removing this requirement.
- Language has been updated in the ordinance to clarify treatment of corner lots or lots with multiple frontages.

Table 4.3 - Customary Residential Accessory
Uses and Structures

Table 4.3 includes a list of customary residential accessory uses indicating whether each use is allowed by right; allowed with restrictions; allowed as a special use or allowed as a special use with restrictions within the front, side and rear yard for all property zoned AF, RS-200, RS-175, RS-150, RS-100, CSD, RM and MH:

(Unless otherwise noted, refer to Section 406 for restrictions.)

Use/Structure	Front	Side Yard	Rear Yard
Wall, Fence	A-R ⁽¹⁾	A-R ⁽¹⁾	A-R ⁽¹⁾
Mail Box			
Lamp Post	A	A	A
Landscaping	A	A	A
Basketball Goal	A-R	A	A
Driveway, Single Family Residential Parking Area	A-R	A	A-R
Vegetable Garden	A-R	A	A
Terrace, Patio	A	A	A
Arbor	A	A	A
Swimming Pool			A
Dog Run/Pen/House			A
Tennis Court			A
Playground Equipment		A	A
Recreational vehicle, boat, trailer		A-R	A-R
Accessory building, minor. (Less than 240 sq. ft.)	SUP-R	SUP-R ⁽²⁾	A-R ⁽²⁾
Accessory building, major. (240 sq. ft. or more.)	SUP-R	SUP-R ⁽²⁾	A-R ⁽²⁾

Note:

(1) Refer to section 700 for restrictions.

(2) For the purposes of this section, on corner lots [and lots with multiple frontages](#), the city Manager shall have the authority to determine which of the side yards may be considered a rear yard for the placement of a customary residential accessory use.

A = Allowed by right.

A-R = Allowed with restrictions.

SU = Special use permit required.

SU-R = Special use permit required and subject to restrictions.

Section 407. Restrictions on accessory uses.

No accessory use or structure shall be taller than or erected on a lot prior to the construction of the principal building(s) or use(s) to which it is accessory. Except driveways, mailboxes or landscaping, no accessory use or structure shall be located within a public right-of-way. All accessory uses and structures except driveways shall be set back at least five (5) feet from any lot line.

Any use shown on Tables 4.2 or 4.3 with the codes “A-R”, “SU-R” or “T-R” shall be subject to the restrictions contained in this section, unless otherwise noted or specifically waived as a condition of zoning. These restrictions shall apply in any zoning district where each particular use is shown as an allowed use with restrictions (A-R), a special use with restrictions (SU-R) or temporary use with restrictions (T-R).

Accessory building, minor.

Shall be less than 240 square feet of floor area and shall be finished to match the exterior of the principal building(s).

~~Buildings larger than 120 square feet shall be constructed of wood, fiber cement, brick or stone siding.~~

Buildings allowed within the front or side yard by special use approval shall be constructed of wood, fiber-cement, brick or stone siding; finished to match the exterior of the principal building(s); shall meet the minimum setback from right-of-way and side yard requirements for the underlying zoning district; and shall be maintained in accordance with all other applicable city ordinances and regulations.

Accessory building, major.

All accessory buildings 240 square feet of floor area or more shall be constructed of wood, fiber-cement, brick or stone siding; finished to match the principal building’s exterior; shall meet the minimum setback from right-of-way and side yard requirements for the underlying zoning district; shall be setback at least ten (10) feet from the rear property line; and shall be maintained in accordance with all other applicable city ordinances and regulations.

Basketball goal.

Adjacent to driveway.

ARTICLE 7.

EXCEPTIONS AND MODIFICATIONS

Section 700. Fences and Walls.

Fences or walls shall be permitted in any zoning district subject to the following requirements:

A. Location & Visibility.

1. No fence or wall shall obstruct the view of adjoining property owners entering or leaving the public/private street, nor obstruct the visibility at street intersections (refer to Development Regulations 9.6.8).
2. A fence or wall may be placed up to the applicant's property side or rear lot line, but shall not encroach onto adjacent property or any easement without written permission from the property owner or easement holder.
3. Fences or walls along a public or private street shall be setback a minimum of three (3) feet from the property line.
4. Encroachment within a drainage easement shall require approval of a Drainage Easement Agreement in a form approved by the City Manager.
5. No fence or wall shall be placed or permitted in the public right-of-way. It is in violation of this Ordinance to place any fence or wall within the public right-of-way and it shall be removed immediately.
6. Adequate provisions shall be made for access of normal utility service (including but not limited to garbage collection as well as water, gas and electricity meters and cutoffs), mail delivery and emergency responders.

~~7. Fences in the front yard require approval of an administrative variance.~~

B. Design Standards.

1. Fences shall be constructed of durable weather proof materials such as wood, brick, stone and metal.
2. Walls shall be constructed of wood, concrete, concrete block, brick, stone or cultured stone. Concrete or concrete block that is visible from adjacent property shall be painted or stained.
3. All parts of a fence or wall visible from adjacent property shall be colored to compliment the principal building and shall be finished with natural wood colors, white, beige, ivory, cream, off-white, black or dark green. Chain link type fences may be unfinished if constructed of galvanized metal.
4. The finished side shall face the exterior of the property.

2. Maximum height is eight (8) feet. Engineered retaining walls higher than eight (8) feet may be permitted upon approval of an administrative variance.
3. The maximum height of a fence or wall in the front yard shall be four (4) feet subject to visibility requirements above. For the purposes of this section, on corner lots, and or other lots with multiple frontages, the City Manager shall determine which yard is considered a front and which yard is considered a side. All fences shall be subject to the visibility requirements above and the City Manager may impose conditions pertaining to the location and design of any fence within a front yard in order to maintain a tasteful appearance that is visually consistent with other nearby properties. Chicken wire, hog wire, or welded wire mesh may only be used as a backing on the interior side of an approved wooden picket or rail fence and shall be securely attached. Hog wire backing shall not contain barbed wire.
4. Chicken wire, hog wire or welded wire mesh may only be used as a backing on the interior side of an approved wooden picket or rail fence and shall be securely attached. Hog wire backing shall not contain barbed wire.

Section 701. Structures Excluded from Height Limitations.

The height limitations of this Ordinance shall not apply to church spires, belfries, flagpoles, monuments, cupolas, domes, ornamental towers, nor to observation towers not intended for human occupancy, water towers, transmission towers, radio or television towers or aerials (other than as provided in Article 13.5), chimneys, smokestacks, conveyors, derricks, parapet walls extending not more than four (4) feet above the roof line of the building, or to necessary mechanical roof appurtenances.

Section 702. Substandard Lots of Records.

Any lot of record existing at the time of the adoption or amendment of this Ordinance, which has an area or a width that is less than is required by this Ordinance, may be used, subject to the following exceptions and modifications:

1. Adjoining lots. When two (2) or more adjoining lots of record with continuous frontage are in one (1) ownership at any time after the adoption or amendment of this Ordinance and such lots, individually, have an area or width that is less than required by this Ordinance, such groups of lots shall be considered as a single lot or several lots of the minimum width and area required in the district in which they are located.
2. Individual lot that does not meet the minimum lot size requirements. Except as set forth in subsection (1) of this section, in any district in which single-family dwellings are permitted, any lot of record existing at the time of adoption or amendment of this Ordinance, which has an area, width or depth less than that required by this Ordinance, may be used as a building site for single-family dwelling.

In the case of such a lot, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the Zoning Board of Appeals is hereby authorized to reduce the side yard requirements for such lot the

ARTICLE 14.

ADMINISTRATION, ENFORCEMENT, PENALTIES AND REMEDIES

Section 1400. Zoning Enforcement Officer.

The City Manager is hereby authorized and directed, on behalf of the City Council of the City of Sugar Hill, Georgia, to administer and enforce this Ordinance. Such authority shall include the right to order, in writing, the remedy of any condition found in violation of this Ordinance, and the right to bring legal action in all courts of competent jurisdiction to ensure compliance with its provisions, including injunction, mandamus, abatement or other appropriate action or proceeding.

The powers and duties of the City Manager include:

1. Examining and approving applications pertaining to the use of land, buildings, or structures when the applications conform with provisions of this Ordinance.
2. Authorizing issuance by the city of all building permits and certificates of occupancy, and keeping permanent records thereof.
3. Conducting such inspections of buildings, structures, and uses of land as are necessary to determine compliance with the provisions of this Ordinance.
4. Maintaining permanent and current records of the Zoning Ordinance including maps and amendments.
5. If the City Manager shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
6. The City Manager may revoke a permit or approval issued under this Ordinance where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based or upon determination that the conditions of the permit or this Ordinance were violated.
7. The City Manager shall have the power to grant variances (except for density and use variances) from the development standards of this Ordinance where, in his opinion, the intent of the Ordinance can be achieved and equal performance obtained by granting a variance. The authority to grant such variances shall be limited to variances from the following requirements:
 - a. Front yard or side yard adjacent to public street – variance not to exceed ten (10) feet.
 - b. Side yard – variance not to exceed five (5) feet.

- c. Rear yard – variance not to exceed ten (10) feet.
- d. Height – variance not to exceed fifteen (15) feet, provided that no increase in the height for a sign may be granted nor may the variance result in an increase in the number of stories than would otherwise be allowed under the applicable zoning district.
- e. Buffers – the dimensions or screening treatment of a buffer as required under Article 12 may be reduced as specified in said section, provided, however, that no buffer required as a condition of zoning shall be modified.
- f. Parking under Article 11 and demarcation of parking spaces – parking spaces may be left unmarked, provided all of the following conditions are present:
 - 1) The parking lot must be designated to serve only a multi-family residential project which is designed and intended for rental occupancy.
 - 2) The parking lots must be designed in relation to internal circulation system such that the areas reserved for parking are easily identified and clearly distinct from the interior driveways because of their location, design, orientation, or configuration, such as in parking areas with a single interior driveway having parking spaces located perpendicular to and along the sides of the access driveway, allowing the curbing to delineate the exterior dimension of the single parking bay.
 - 3) Approval for the elimination of the striping has been obtained by the applicant in writing from the Fire Services Division of the Gwinnett County Fire Department.
- g. Accessory structures allowed within the front yard – accessory structures may be allowed within the front yard of residential zoning districts provided all the following conditions are met:
 - 1) The residentially-zoned property contains at least three acres.
 - 2) The accessory structures are limited to a swimming pool, garage/carport, barn, storage building, or other similar structures.
 - 3) The accessory structure is set back a minimum of 100 feet from the right-of-way and located no closer than 40 feet to any side property line. (If the accessory use is for animal quarters, this must be a minimum of 100 feet from any property line.)
 - 4) The accessory structure shall be screened with walls, fences, or suitable landscaping so that it is not visible from the street.
- h. A single accessory structure may be allowed within the side yard of a corner lot [or other lots with multiple frontages](#) provided all the following conditions are met:

- 1) The accessory structure is limited to a garage, carport, gazebo or storage building and meets all other requirements for an accessory structure.
 - 2) The accessory structure meets all the minimum setback requirements for the underlying zoning district.
 - 3) The accessory structure shall be screened with walls, fences, or suitable landscaping so that it is not visible from the street.
- i. Any other use or requirement which is specifically listed as an administrative variance within any section of this Zoning Ordinance.

Section 1401. Building Permit Required.

Unless otherwise exempted by this ordinance or the City Code, No building or other structure shall be erected, moved, added to or structurally altered without a Building Permit issued by the City Manager. No Building Permit shall be issued except in conformance with the provisions of this Ordinance and the current building code.

All applications for Land Disturbance Permits, and Building Permits for uses other than one-family and duplex dwellings shall be accompanied by plans, drawn to scale, showing the actual dimensions of the lot to be built upon, the sizes and the locations on the lot of any existing buildings or structures, the shape, size, height, use and the location on the lot of the building or structure to be erected, moved, added to or structurally altered and such other information as may be necessary to provide for the enforcement of this Ordinance. These applications and plans shall conform to the requirements of the *City of Sugar Hill Development Regulations*.

Section 1402. Certificate of Occupancy Required.

A Certificate of Occupancy issued by the City is required prior to the use or occupancy of:

1. Any lot or change in the use thereof.
2. A building hereafter erected or a change in the use of an existing building.
3. A change in any lawful non-conforming use. The Certificate of Occupancy shall state specifically wherein the non-conforming use fails to meet provisions of this Ordinance.

No Certificate of Occupancy shall be issued unless the lot or building or structure complies with all the provisions of this Ordinance.

A record of all Certificates of Occupancy shall be kept on file at the City and a copy shall be furnished, on request, to any person having a proprietary or tenancy interest in the building or land involved.

Section 1403. Fees.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of occupancy, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Planning and Development