**STATE OF GEORGIA**

**CITY OF DORAVILLE**

**ORDINANCE NO. 2010-__**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA TO AMEND SECTION 704 OPEN USES IN UNDEVELOPED AREAS, ARTICLE VII EXCEPTIONS, MODIFICATIONS AND ENCROACHMENTS, CHAPTER 23 ZONING; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

**WHEREAS**, zoning is a matter within the purview of local governments pursuant to Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia of 1983;

**WHEREAS**, these articles are adopted pursuant to authority granted to the City of Doraville, Georgia by Article XI, Section II, Paragraph III of the Constitution of the State of Georgia of 1983, and more specifically the plenary police powers delegated to the City by said section and by operation of law;

**WHEREAS**, the Official Code of Georgia Annotated § 36-66-1, et seq. provides procedures and regulations for the adoption of zoning ordinances;

**WHEREAS**, the duly elected governing authority of the City of Doraville, Georgia are the Mayor and Council thereof;

**WHEREAS**, evidence was presented to the Mayor and Council from the City Planner that temporary facilities should be further regulated in the Zoning Code to improve the use of the Zoning Ordinance and that amendments were needed to prevent pernicious and incompatible uses of temporary buildings and their locations;

**WHEREAS**, the existing uses and zoning of nearby properties will not be directly applicable to this Ordinance;

**WHEREAS**, to the extent there is destruction of property values on any property, the same promotes the health, safety, morals or general welfare of the public;

**WHEREAS**, the relative harm to the public as compared to the hardship imposed upon the individual property owners is de minimus;

**WHEREAS**, the suitability of a subject property for a zoning proposed is not applicable;

**WHEREAS**, the length of time a property has been vacant as zoned, considered in the context of land development of adjacent and nearby property is not applicable;

**WHEREAS**, whether the zoning proposal adversely affects the existing use or usability of adjacent or nearby property is not directly applicable to this Ordinance;

**WHEREAS**, property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

**WHEREAS**, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;

**WHEREAS**, the zoning proposal is in conformity with the policy and intent of the land use plan;

**WHEREAS**, there are other existing or changing conditions affecting the use and development of property which gives supporting grounds for approval of the zoning proposal;

**WHEREAS**, the possible effects of the change in the regulations or map on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community have been considered and pose no negatives;

**WHEREAS**, the impact shall be limited as to adoption of the proposed zoning change upon pedestrian and vehicular circulation and traffic and thoroughfare capacities and capabilities; and

**WHEREAS**, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

**Section 1.**

That Section 704 Open uses in undeveloped areas, Article VII Exceptions, Modifications and Encroachments, Chapter 23 Zoning of the Code of Ordinances, City of Doraville, Georgia is hereby amended to read as follows:

*"Chapter 23. Zoning*

. . .

*Article VIII. Exceptions, Modifications and Encroachments.*

. . .

*Section 704. Open uses in undeveloped areas.*

*A temporary building or buildings such as a construction trailer, dumpster, portable toilet, and storage containers in connection with a construction project shall be permitted on the land of the project only during the active construction period during which the occupant has received and maintains a permit from the City. No temporary building or buildings shall be used for residential habitation. No temporary building or buildings shall house a business in lieu of permanent construction. The City of Doraville shall not issue an occupational tax certificate to a temporary building or buildings unless a construction trailer for a licensed contractor*

*performing work on the development site during the duration of development work performed. Temporary building(s) related to development shall be removed at the release of the final Certificate of Occupancy of the project and shall be maintained for health and sanitation throughout their duration. Temporary building(s) used in conjunction with a project shall require a separate building permit from the City but shall not normally observe customary building setbacks and location restrictions provided they are a minimum of ten feet (10') from any right-of-way and not located within a dedicated easement, floodplain, stream bank buffer, transitional zoning buffer, landscape strip, right-of-way, and/or interfere with traffic flow on the development site. Notwithstanding the foregoing, portable toilets shall observe customary building setback guidelines and to the extent possible shall not be visible from a public right-of-way unless placed fifty feet (50') or more from a right-of-way.*

. . ."

**Section 2.**

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor or Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 3.**

Penalties provided for violations of this Ordinance are set out in Section 1-12, as amended hereby, of the Code of Ordinances, City of Doraville, Georgia and are herby incorporated as if set out fully.

**Section 4.**

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 5.**

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 6.**

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

**Section 7.**

It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

**Section 8.**

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this ___ day of _____, 2010.

**CITY OF DORAVILLE, GEORGIA**

_____
Ray Jenkins, Mayor

_____
First Reading

_____
Second Reading

ATTEST:

_____(SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

| | Yea | Nay |
|---|---|---|
| Maria Alexander | ☐ | ☐ |
| Brian Bates | ☐ | ☐ |
| Pam Fleming | ☐ | ☐ |
| Karen Pachuta | ☐ | ☐ |
| Donna Pittman | ☐ | ☐ |
| Bob Roche | ☐ | ☐ |