**DRAFT**

**STATE OF GEORGIA**

**CITY OF DORAVILLE**

**ORDINANCE NO. 2011-_**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA TO AMEND SECTION 906 R-4 MULTIPLE FAMILY RESIDENCE DISTRICT (CONDOMINIUMS, COOPERATIVES AND TOWNHOUSES), CHAPTER 23 ZONING; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO ADOPT A PREAMBLE; 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**, on December 9, 2010, the Planning Commission made a recommendation to the Mayor and Council to approve necessary changes to the R-4 multiple family residence district;

**WHEREAS**, the existing uses and zoning of nearby properties have been considered and this Ordinance balances the same;

**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 individual property owners is de minimus;

**WHEREAS**, the suitability of a subject property for a zoning proposed is not directly 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 not otherwise outweighed by the community benefits;

**WHEREAS**, there should be limited impact 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 906, R-4 Multiple Family Residence District (Condominiums, Cooperatives and Townhouses), Chapter 23 Zoning of the Code of Ordinances, City of Doraville, Georgia is hereby amended to read as follows:

*"Chapter 23. Zoning.*

. . .

***Sec. 906. R-4 multiple family residence district (condominiums, cooperatives and townhouses).***

*Purpose: It is the intent of this district to accommodate development of a multiple-family character when served by public water and sewer.*

*Permitted Uses: Multiple-family dwellings containing three (3) or more attached dwelling units of common wall construction on a single lot which has not been customarily subdivided. Each dwelling unit shall have an ownership interest in the lot upon which the collective has been constructed.*

*Accessory Uses: Customary accessory uses as described in Section 601 which may either be common elements and/or limited common elements as set forth in the Georgia Condominium Act.*

*Conditional Uses: None.*

*Uses Prohibited: Any use not specifically permitted or uses not permitted upon approval of a Conditional Use shall be prohibited.*

*Dimensional Requirements:*

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|---|---|
| *Minimum Lot Area* | *3 acres* |
| *Minimum Lot Width* | *85 feet* |
| *Minimum Lot Depth* | *120 feet* |
| *Minimum Front Yard Building Setback* | *20 feet plus five (5) feet for any ten (10) story building* |
| *Minimum Public Road Frontage* | *30 feet (refer to Section 806)* |
| *Minimum Rear Yard Building setback* | *15 feet or buffer, whichever is greater (see also Section 1102)* |
| *Minimum Side Yard Building Setback* | *15 feet or buffer, whichever is greater (see also Section 1102)* |
| *Maximum Building Height* | *Ten (10) stories or one hundred twenty (120) feet, provided tract is not adjacent to property zoned for single-family detached dwellings and subject to FAA approval if within approach zone; otherwise, maximum four (4) stories or fifty (50) feet as shall be subject to FAA approval if within approach zone.* |
| *Maximum Impervious Lot Coverage* | *Eighty percent (80%) (no common active amenities) or ninety percent (90%) (with common active amenities) when located on the same zoned lot* |
| *Minimum Floor Area* | |
| *Studio Dwelling Units:* | *650 heated square feet* |
| *One-Bedroom Dwelling Units:* | *850 heated square feet* |
| *Two-Bedroom Dwelling Units:* | *1,150 heated square feet* |
| *Three or More Bedroom Units:* | *1,250 heated square feet plus 100 heated square feet per dwelling unit over 3 bedrooms* |
| *Minimum Distance Between Buildings* | |
| *Front-to-front arrangement:* | *50 feet* |
| *Front-to-rear arrangement:* | *60 feet* |

| | |
|---|---|
| *Rear-to-rear arrangement:* | *40 feet* |
| *Side-to-side arrangement:* | *30 feet* |
| *All other:* | *30 feet* |
| | *Each of the minimum distances shall be increased by ten (10) feet for each story in excess of three (3) stories for any building exceeding three (3) stories in height.* |

*Development Provisions: The maximum density permitted shall be twelve (12) dwelling units per acre unless a variance is granted by City council to allow up to, but no more than, fifty (50) dwelling units per acre.*

*All required parking shall be on-site (refer to Article XII, Parking and Loading) and these shall not be located within the Code required front yard building setback.*

*All internal driveways shall be in accordance with Article XII, Parking and Loading, except that the County Fire Marshall may require minimum drive aisle widths which exceed the minimum width specified in Article XII, Parking and Loading, upon specific review of the traffic circulation and fire protection needs.*

*All garbage, trash containers, dumpsters, and trash compactors shall be screened by a solid masonry enclosure constructed of the same materials as the principal structure which is no less than six (6) feet in height and as further detailed in the City dumpster ordinance.*

*Any swimming pool amenity shall be in-ground construction, shall not be located nearer than fifty (50) feet to the right-of-way line, nor nearer than one hundred and fifty (150) feet to a property zoned for single-family detached dwellings, and when located within a front yard shall be screened from the public right-of-way with a six (6) foot opaque wall. In all other locations, pools shall be screened with a six (6) foot opaque fence or wall. Pools must be provided with a fence and gate in accordance with the building code. Gates shall be self-locking. No lifeguard shall be required.*

. . ."

**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 _____, 2011.

**CITY OF DORAVILLE, GEORGIA**

_____
Mayor

_____
First Reading

_____
Second Reading

ATTEST:

_____(SEAL)
Melissa McCain, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

**DRAFT**

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