STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-___

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA TO ADOPT A NEW SECTION 914 COMMERCIAL TRANSITION DISTRICT (CT) SECTION, ARTICLE IX SCHEDULE OF DISTRICT REGULATIONS; TO AMEND SECTION 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 IX, 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, the Mayor and Council, after a series of public meetings and a workshop, have elected to adopt a transitional zone to accommodate certain as-built structures that contain roll-up doors but that are not otherwise consistent with traditional warehousing facilities due to their smaller size and limited parking and turn radii;

WHEREAS, the Mayor and Council wish to limit this area to specific sites that meet the particular and unique as-built specifications for implementation of this zone;

WHEREAS, the existing uses and zoning of nearby properties will not be negatively impacted by 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 individual property owners is de minimus;

WHEREAS, the suitability of a subject property for a zoning proposed has been considered and is met by this zone;

WHEREAS, the length of time a property has been vacant as zoned, considered in the context of land development of adjacent and nearby property has been considered;

WHEREAS, whether the zoning proposal adversely affects the existing use or usability of adjacent or nearby property has been considered and adverse effects should not outweigh the benefits of the zoning;

WHEREAS, property to be affected by the zoning proposal will have a reasonable economic use as 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;

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

Section 1

That the Code of Ordinances, City of Doraville, Georgia, is hereby amended by adding a section to be numbered 914 Commercial Transition District, which such section reads as follows:

"Chapter 23. Zoning

. . .

Article IX. Schedule of District Regulations.

. . .

Section 914. CT Commercial Transition District.

Purpose. The (CT) Commercial Transition district is intended for parcels that have existing ***single-entry vehicular style*** *roll-up doors* ***with such doors primarily facing*** *an interior private driveway or a secondary street other than New Peachtree Road, Shallowford Road, or Buford Highway. The district provides a mixture of commercial, office, light industrial, and office warehouse style uses while allowing flexibility in their assemblage and configuration. Parcels must be three (3) acres or less in size. All references to street names are based on the names assigned to the streets referenced* ~~*at*~~ ***on date of*** *the adoption of this district* ~~*by location*~~ *or as such streets may be renamed in the future but which remain at the same location as those existing on upon the adoption of this district.*

The permitted locations for inclusion within this district are the properties meeting the criterion herein which are located within the block of parcels which front New Peachtree/Shallowford Roads/Buford Highway and Church Drive/Stewart Road/New Peachtree Road as identified on the supplementary map attached hereto labeled as Exhibit "A."

The existing parcel must be zoned C-2 (General Business District) at the time of application for the Commercial Transition district ***and where no portion of the site being used***

in any residential habitation capacity. The existing structure or facilities shall have been designed in a multi-tenant capacity for two (2) or more tenants. The tenant spaces shall not have been primarily automobile and associated automobile uses.

Split zoning within this district is possible where a frontage portion of the parcel fronts either New Peachtree Road or Shallowford Road and remains a C-2 (General Business District) designation and the remainder of the property carries the Commercial Transition (CT) designation. Split zoning of properties fronting Buford Highway shall not be permitted. Applicants for ***split*** *zoning shall be required to provide as-built surveys with a delineated zoning line and legal description****(s) for each zoned portion of the site and the parent tract being split zoned****. The City shall not entertain City initiated rezones containing proposed split zoned parcels without the necessary as-built survey.*

The district does not apply to ***new,*** *ground up construction and/or vacant parcels. Thus, properties which are voluntarily or involuntarily demolished resulting in the loss of all or a portion of existing facilities shall be removed from this district and shall revert to* ***C-2*** *zoning. Demolition of interior tenant spaces shall be permitted for interior renovation provided there is no expansion in the tenant space square footage.*

Properties which have been conditionally zoned by the City and/or have settlement agreements in place prior to the adoption date of this chapter are exempt from inclusion within this district.

Properties without existing roll-up doors as described herein are exempt from inclusion; however, no additional roll up doors or exterior renovations (other than painting and routine maintenance) shall be permitted.

Residential habitation, wholesaling, outdoor storage and display are prohibited.

The storage *of* ***any*** *vehicle* ***which is either not operable and/or is partially disassembled and is receiving some on-site service at a business located within the C-T zone*** *(other than within a completely enclosed structure) is prohibited.* ***At all times, items parked on the property shall not qualify as Junk Motor Vehicles ~~as these~~ which shall be subject to Code enforcement action.***

The property as well as individual tenant spaces shall be forbidden from utilizing construction roll-off dumpsters at any time unless in conjunction with a City issued building and/or demolition permit.

Inclusion within this district is restricted to lands with public water and sewer connections and service.

Configurations of drive-through and drive-in services shall be prohibited.

The subdivision of an existing lot of record and/or the combination of one (1) or more lots of record shall be prohibited. The lots shall be configured as depicted on the Official Zoning Map of the City of Doraville, Georgia, as adopted at the time of district inclusion.

Footprint expansion of existing facilities shall be prohibited other than for attached or detached dumpster enclosures as are required by Code.

This district is not a Highway Commercial Corridor nor does its presence indicate its inclusion within the City's Comprehensive Plan as that designation.

Alcohol warehousing, sales or consumption is not permitted within this district.

Adult novelty warehousing, sale, or distribution are not permitted within this district

PERMITTED USES:

Accounting, auditing, and bookkeeping services.

Advertising agencies and services.

Animal grooming and veterinary services but without overnight kenneling or breeding facilities.

Auction gallery (indoor only) but excluding automotive and truck sales.

Art and school supply stores with or without instruction ***~~as~~ subject to the adult entertainment ordinance.***

Associations for physically or mentally handicapped persons and non-profits.

Automotive parts store (retail only) but without on-premises installation.

Bail bond and appearance bond operations as shall be subject to the City's regulatory Codes.

Bait shops.

Bakeries and baked goods stores.

Beauty supply store without beauty services.

Bicycle store (non-motorized), with or without repair.

Blueprint and duplicating shops including commercial printers.

Books and periodicals (subject to restrictions of adult entertainment) new and/or used; stationary; and card shops.

Bookbinding.

Burglar and fire alarm sales and installation offices with or without on-site monitoring of sold systems.

Camera stores with or without lab processing.

Candy, nut, and confectionary stores.

Car and passenger truck stereo, audio and video: sales, repair, and installation provided all operations are conducted indoors and furthermore provided no overnight storage of vehicles unless within a roll up door facility.

Catering services without banquet hall.

Cellular telephone sales of new merchandise.

Chiropractic offices as shall be licensed by the State of Georgia.

Cigar and cigarette stores but excluding alcohol sales. ***The sale of drug paraphernalia shall be prohibited.***

Cleaning, maintenance, and janitorial services offices and supplies.

Clinics (out-patient), except abortion clinic, reproductive donor clinic, and substances abuse and treatment facilities. All medical personnel shall be licensed by the State of Georgia.

Clothing, apparel, and accessories stores selling new merchandise.

Clothing and costume rental agencies.

Commercial artist studios (except body craft studios).

Commercial re-location services with offices catering to the location and leasing of dwellings but excluding moving or storage operations.

Commercial weight control/loss facility and associated support group.

Computer sales and service of new and used merchandise.

Computer and data processing services.

Computer programming services and software sales.

Concierge services.

Consulting scientist's office with or without laboratory services.

Contractor's offices.

Courier or messenger services ***limited to not more than two (2) vehicles.***

Credit reporting, adjustment, and collection agencies but excluding the collection, storage, or sale of on-site of motorized vehicles or equipment.

Customer service centers with or without call centers.

Dairy products stores.

Denture fitting and lab.

Detective agencies.

Discount store selling new merchandise.

Dispatch office without on-site storage of dispatched vehicles.

Dog obedience training when conducted indoors.

Drapery shops ***with or without on-site fabrication.***

Dry cleaners and Laundromats.

Employment, personnel, and temporary help service (excluding day labor or labor pool).

Engineering, drafting, and architectural services as shall be licensed by the State of Georgia.

Fencing installation offices.

Florist and gift shops ***(excluding adult novelty).***

Floor covering stores – sales, service, and installation.

Furniture and household appliance stores selling ***and****/or renting new merchandise.*

Furriers and fur shops without manufacturing.

Glass operations provided all activities occur within an enclosed facility and no glass manufacture on-site.

Health and fitness clubs without massage or spa.

Healthcare supplies and equipment with or without healthcare equipment rental.

Heating and Air Conditioning dealers, repair, and service.

Hobby, toy, and games stores (excluding adult entertainment).

Holding and investment organizations

Home health care agency office with all medical personnel licensed by the Sate of Georgia.

Ice cream shops provided indoor or outdoor seating (or some combination thereof) is provided.

Ice storage houses of not more than five (5) ton capacity.

Instruction of fine arts but excluding body craft studios. When models are utilized in a studio or instruction setting, the following anatomical areas shall not be exposed:

(1) Less than completely and opaquely covered human genitals or pubic region, cleft of the buttocks, or female breast below a point immediately above the top of the areola;

(2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Insurance carriers, agents, and brokers' offices as shall be licensed by the State of Georgia.

Interior decorator and home interiors consulting offices.

Internet-based business offices but excluding on-site shipping services as otherwise restricted by the adult entertainment ordinance and automotive dealer's offices.

Jewelry stores selling new merchandise at retail and jewelry repair but excluding pawnbrokers and precious metal dealers.

Lawn care services.

Lawn mower and small engine repair within a facility.

Leather goods fabrication and sales.

Locksmiths.

Luggage (new) retail sales store.

Maid, nanny, and household help agency (excluding day labor and labor pools).

Mail order ***distribution*** *houses* ***(excluding adult novelty and adult entertainment).***

Management, consulting, and public relations services.

Market research center/call center.

Martial arts studios.

Membership organizations including automotive clubs (office only), ***better*** *business bureaus, chambers of commerce, labor unions (except labor or assembly halls), political organizations, and professional organizations.*

Miscellaneous home furnishing stores including bedding and linen stores, cookware stores, cutlery stores, glassware and china shops, lamp and shade shops, selling new merchandise.

Money management and investment services.

Monument sales for interned human and animal remains.

Motor vehicle window tinting installation provided all operations are conducted indoors and furthermore provided no overnight storage of vehicles unless within a roll up door facility.

Music and musical instrument stores ***with or without instruction.***

Newspaper offices and printing plants incidental to such offices.

Newspaper stand ***within an enclosed facility.***

Notary service as shall be licensed by the Georgia Superior Court Clerk's Cooperative Authority/Office of the Secretary of State.

Office supply and related businesses but excluding the sale of used office equipment and furniture.

Optometrists' office as shall be licensed by the State of Georgia with or without eyeglass lab.

Paint, glass, hardware and wallpaper stores.

Party supply stores (excluding liquor and package stores).

Pest control exterminating services.

Philanthropic institution offices.

Photocopying, word processing and similar office support activities.

Photographers (including the sale of supplies and equipment) but excluding the classification of adult entertainment.

Picture framing.

Pluming, electrical, and home building supply showrooms, shops, and sales centers.

Radio/compact disc and television sales of new and used merchandise and service (including the sale of supplies and equipment).

Real estate brokers, managers, appraisers, and real estate title.

Rediscount and financing institutions for credit agencies other than banks.

Saddle and harness shops.

Sewing and piece goods stores with or without sewing instruction.

Shoe stores and shoe repair shops but excluding outdoor shoe shine stands. ***Indoor shoe shine stands may be permitted.***

Sign manufacturing and fabrication shops with or without retail sales.

Social service agency other than overnight or sleeping accommodations.

Special training and schooling services including art and music schools, barber and beauty schools, business schools, dancing schools, exercise studios, and tutoring.

Sporting goods stores selling new or used equipment but excluding the sale of marine craft and guns.

Sports medicine clinic.

Surveyor's office as shall be licensed by the State of Georgia.

Swimming pool contractors, supplies, and service but the excluding on-site sales of pools.

Tailors, dressmaking and millinery.

Tanning salon without massage, spa, or other personal services.

Tax preparation and filing service.

Theatrical producers, bands, orchestras, and entertainers.

Ticket agency office but excluding bus service.

Tool rentals (excluding heavy equipment).

Toy store for infant and children selling new merchandise.

Translation service.

Travel agency office but excluding bus service.

Upholstery shops for furniture or fixtures but excluding automobiles or other motorized vehicles.

Urban planning services offices.

Utility billing or payment offices.

Video/DVD sales and rental but excluding adult entertainment.

Vitamin and health goods store.

Watch and clock sales (new) and repair.

ACCESSORY USES:

Customary accessory uses except as furthermore regulated herein.

CONDITIONAL USES:

Antique store selling only merchandise at least 50 years old but excluding automobiles and motorized vehicles.

Consignment store of used furniture or clothing.

Precious metal dealers but excluding pawnbrokers (subject to restrictions of the Code).

Used office furniture or equipment.

USES PROHIBITED:

Any use not specifically permitted or uses not permitted upon approval of a Conditional Use shall be prohibited

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DIMENSION REQUIREMENTS:

Minimum Lot Area – Undefined, reflecting existing parcel configurations per Lot of Record at the time of zoning application.

Maximum Lot Area – 3 acres, including wetlands and floodplain.

Minimum Lot Width – Variable based on existing parcel configuration; however no less than 30 feet.

Minimum Lot Frontage on a Public Street – 30 feet

Minimum Front Yard Building Setback – variable reflecting as-built conditions; however no less than five (5) feet.

Minimum Rear Yard Building Setback – variable reflecting as-built conditions; however no less than three (3) feet.

Minimum Side Yard Building Setback – variable reflecting as built conditions; however built to the line at zero (0) setback is permissible

Maximum Building Height – variable reflecting as built conditions; however, not to exceed two (2) stories.

Maximum Impervious Lot Coverage – variable reflecting as-built conditions; however, no more than 95 percent coverage

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	☐	☐