

**AN ORDINANCE BY
COUNCILMEMBER KWANZA HALL
AS SUBSTITUTED BY ZONING COMMITTEE**

16-O -1548

Z-17-09

A SUBSTITUTE ORDINANCE TO AMEND 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA CODE OF ORDINANCE TO ALLOW ACCESSORY DWELLING UNITS AS A PERMITTED ACCESSORY USE IN THE R-5 DISTRICT; TO DEFINE ACCESSORY DWELLING UNITS; AND FOR OTHER PURPOSES.

WHEREAS, the 1982 Zoning Ordinance of the City of Atlanta (“City”) Code of Ordinances provides for certain regulations for accessory dwelling units in residential districts; and

WHEREAS, it is in the best interest of the City to amend the Zoning Ordinance to incorporate language for micro-housing units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:

SECTION 1: That Section 16-07.004 entitled “Permitted Accessory Uses and Structures” in the R-5 zoning district is hereby amended to add subsection (12), and shall now read as follows (new language in bold):

Sec. 16-07.004. - Permitted accessory uses and structures.

Uses and structures which are customarily incidental and subordinate to permitted principal uses and structures are permitted. These include but are not limited to the following, subject to limitations and requirements set forth herein or elsewhere in this part:

- (1) Greenhouses, garden sheds, private garages and similar structures.
- (2) Barns for keeping of horses, provided that no such barn shall be within 50 feet of any lot line.
- (3) Guest houses, servant quarters, or lodging facilities for caretakers or watchmen.
- (4) Swimming pools, tennis courts and similar facilities.
- (5) Home occupation, subject to limitations set forth in section 16-29.001(17).
- (6) Structures necessary for active construction projects.
- (7) Devices for the generation of energy, such as solar panels, wind generators and similar devices.
- (8) Amateur radio service antenna structures 70 feet or less in height. Amateur radio service antenna towers over 70 feet in height shall be by special use permit and comply with the requirements of 16-25.002(3)h, except that subsection h(ii) and subsection h(iv)(d) shall not be applicable to such applications.
- (9) Electric vehicle charging stations equipped with Level 1 and/or Level 2 EVSE.
- (10) Urban gardens.
- (11) Market gardens are limited to parcels that are used as schools, churches, synagogues, temples, mosques and other religious worship facilities.
- (12) Accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.**

Except in the case of home occupation, no accessory use shall be of a commercial nature.

No accessory building shall be constructed until construction of the principal building has actually begun, and no accessory building shall be used or occupied until the principal building is completed and in use.

SECTION 2: That Section 16-07.005 entitled “Special Permits” in the R-5 zoning district is hereby amended to read as follows (new language in bold):

Sec. 16-07.005. - Special permits.

The following uses are permissible only by special permits of the kinds indicated subject to limitations and requirements set forth herein or elsewhere in this part:

(1) *Special use permits:*

- (a) Cemeteries, mausoleums and columbariums.
- (b) Child care nurseries, day care centers, pre-kindergartens, kindergartens, play and other special schools or day care facilities for young children.
- (c) Churches, synagogues, temples, mosques and other religious worship facilities.
- (d) Civil, service, garden, neighborhood or private clubs.
- (e) Colleges and universities, other than trade schools, business colleges and similar uses.
- (f) Extraction or removal of sand, gravel, topsoil, clay, dirt, or other natural resources.
- (g) Personal care homes, and rehabilitation centers.
- (h) Landfills.
- (i) Broadcasting towers and line-of-site relay devices for telephonic, radio or television communications greater than 70 feet in height, except 1) alternative design mounting structures and 2) new or additional uses of existing structures as contemplated by section 16-25.002(3)(i)(iv)(k).
- (j) Nursing homes.
- (k) Parks; playgrounds, stadiums, baseball or football fields, golf course, sports arena, and community centers.
- (l) Private schools.

(2) *Special administrative permits:*

- (a) Zero-lot-line subdivision of lots with existing two-family dwellings. See section 16-28.011(6).
- (b) Farmers' markets limited to parcels which meet the minimum lot size requirements and are used as churches, synagogues, temples, mosques and other religious worship facilities or schools.
- (c) Broadcasting towers and line-of-site relay devices for telephonic, radio or television communications 70 feet or less in height, alternative design mounting

structures, and new or additional uses of existing structures as contemplated by section 16-25.002(3)(i)(iv)(k).

(d) Whenever an application for such a permit is made, the director of the bureau of planning shall provide prior notification to the pertinent district councilmember and at-large councilmembers.

(e) Urban gardens as a principal use on an undeveloped lot.

(3) *Special exceptions:*

(a) Churches, synagogues, temples, mosques and other religious worship facilities, where lot area is one acre or less.

(b) Structures and uses required for operation of a public utility, except uses involving storage, train yards, warehousing, switching, or maintenance shops as the primary purpose.

(c) **Accessory dwelling units without off-street parking on parcels without a curb-cut or parcels without off-street parking.**

SECTION 3: That Section 16-07.007 entitled “Minimum lot requirements” in the R-5 zoning district is hereby amended to read as follows (new language in bold):

Sec. 16-07.007. - Minimum lot requirements.

The following minimum lot requirements shall apply to all uses approved by special permits as well as permitted uses:

(1) *Churches, temples, synagogues, mosques and similar religious facilities, except when authorized by a special permit.* Repealed.

(2) *Single-family detached dwellings and all other uses:* Every lot shall have an area of not less than **7,500** square feet and a frontage of not less than **50** feet, except for zero-lot-line development.

(3) *Single-family zero-lot-line development; single lot area:* 2,500 square feet with a minimum combined area of **7,500** square feet; lot width: Not less than ten feet, with a minimum combined width of **50** feet. See section 16-28.007. **Accessory dwelling units may not be subdivided from their lot.**

(4) If a lot has less area or width than herein required and was a lot of record on the effective date of this part, that lot shall be used only for a single-family dwelling, two-family or duplex. Zero lot line is permitted.

SECTION 4: That Section 16-07.008 entitled “Minimum yard requirements” in the R-5 zoning district is hereby amended and shall read as follows (new language in bold):

Sec. 16-07.008. - Minimum yard requirements.

The following minimum yard requirements shall apply to all uses approved by special permits as well as permitted uses:

(1) *Front yard:* There shall be a front yard having a depth of not less than 30 feet.

- (2) *Side yard:* There shall be two side yards, one on each side of the main building, each having a width of not less than seven feet, except for zero-lot-line development where no side yard is required along the internal lot line **and except for accessory dwelling units where a minimum four foot side yard is required.**
- (3) *Rear yard:* There shall be a rear yard of not less than seven feet except for zero-lot-line units where the internal side or rear lot line may be reduced to zero feet **and except for accessory dwelling units where a minimum four foot rear yard is required.**
- (4) *Accessory structures:* Accessory structures, when permitted, shall be placed to the side or rear of the main structure within the buildable area of the lot so as not to project beyond the front of the main structure. For fences, see section 16-28.008(5).
- (5) *Maximum floor area within this district:*
 - a. For a single-family detached dwelling on a lot which meets the minimum lot area requirement described in section 16-07.007(2): The maximum floor area **ratio including accessory dwelling units** shall not exceed 0.50 of the net lot area.
 - b. For a single-family detached dwelling on a lot which does not meet the minimum lot area requirement described in section 16-07.007(2):
 1. The maximum floor area **including accessory dwelling units** allowed shall not exceed the lesser of either: (i) 3,750 square feet of floor area; or (ii) a maximum floor area ratio of 0.65 of the net lot area unless otherwise permitted as stated in subpart 2 below;
 2. If the floor area ratio does not allow it least 1,800 square feet of floor area, a dwelling including accessory dwelling units of such size may be built provided that all other provisions of this part shall apply unless relief from such provisions has been granted by the board of zoning adjustment.
 - c. For a duplex: The maximum floor area ratio shall be 0.60 of the net lot area.
 - d. For a two-family dwelling that is not a duplex: The maximum floor area ratio within this district shall not exceed 0.50 of the net lot area for the main unit of a two-family dwelling, provided however that the secondary dwelling unit shall not exceed 750 square feet.
- (6) *Maximum lot coverage:* Maximum lot coverage within this district shall not exceed 55 percent of the net lot area.
- (7) *Location of structures in two-family dwellings:* Any structure of lesser floor area in any two-family dwelling unit shall be located no nearer to any street frontage than the structure of greater floor area. Any dwelling structure with a street-fronting elevation shall provide a pedestrian entrance on that elevation.
- (8) *Location of accessory dwelling unit:* **The distance between an accessory dwelling unit and the primary dwelling on adjacent properties may be no less than the distance between the accessory dwelling unit and the primary structure on its lot.**

SECTION 5: That Section 16-07.010 entitled “Minimum off-street parking requirements” in the R-5 zoning district is hereby amended and shall read as follows (new language in bold):

Sec. 16-07.010. - Minimum off-street parking requirements.

The following parking requirements shall apply to all uses approved by special permit as well as permitted uses (see section 16-28.014):

- (1) Single-family detached dwellings and single-family zero-lot-line detached, semidetached, -attached dwellings: One space per dwelling.
- (2) Two-family dwellings: One space per dwelling for structures in which one of the dwelling units does not exceed 750 square feet. For two-family structures, other than those provided for above, parking shall be provided as follows:
 - a. One space per dwelling for dwellings with up to three bedrooms.
 - b. One space per dwelling plus one space for each bedroom above three bedrooms for dwellings with four or more bedrooms.

For the purpose of determining the number of bedrooms, all rooms suitable for occupancy other than those specifically designed as a kitchen, bathroom, living room or dining room, whether designated as a den, study, recreation room or similar name, shall be counted as a bedroom. Notwithstanding any other provisions of this part, for two-family dwellings in which either dwelling has four or more bedrooms, all parking shall be located in the side or rear yard behind the front façade of the building.
- (3) Schools, colleges, churches, recreational or community centers and other places of assembly: One space for each four fixed seats (with 18 inches of bench length counted as one seat), or one space for each 35 square feet of enclosed floor area for the accommodation of movable seats in the largest assembly room, whichever is greater, plus the following:
 - (a) Public or private elementary or middle school: Two spaces for each classroom.
 - (b) High school: Four spaces for each classroom.
 - (c) Colleges and universities: Eight spaces for each classroom.
- (4) Nursing homes are required to have one space for each two employees and one additional space if there are three or fewer occupants. If there are four to six occupants, a second additional space is required.
- (5) Child care centers, day care centers, prekindergartens, kindergartens, play and other special schools or day care centers for young children: One space per 600 square feet of floor area. In addition to providing off-street parking, such establishments shall provide safe and convenient facilities for loading and unloading children as approved by the director, bureau of traffic and transportation.
- (6) Other uses: One space for each 300 square feet of floor area.

SECTION 6: That Section 16-08.010 entitled “Minimum off-street parking requirements” in the R-G zoning district is hereby amended and shall now read as follows (new language in bold):

Sec. 16-08.010. - Minimum off-street parking requirements.

The following parking requirements shall apply to all uses approved by special permit as well as permitted uses (see section 16-28.014):

- (1) *Schools, colleges, churches, recreation or community centers and other places of assembly:* One space for each four fixed seats (with 18 inches of bench length counted

as one seat) or one space for each 35 square feet of enclosed floor area for the accommodation of movable seats in the largest assembly room, whichever is greater, plus the following:

- (a) *Public or private elementary or middle school*: Two spaces for each classroom.
 - (b) *High school*: Four spaces for each classroom.
 - (c) *Colleges and universities*: Eight spaces for each classroom.
- (2) Nursing homes are required to have one space for each four beds. Personal care homes, assisted living facilities, and rehabilitation centers with a residential component are required to have the amount of parking specified by the Land Use Intensity Ratios Table.
 - (3) *Child care centers, day care centers, prekindergartens, kindergartens, play and other special schools or day care centers for young children*: One space per 600 square feet of floor area. In addition to providing off-street parking, such establishments shall provide safe and convenient facilities for loading and unloading children as approved by the director, bureau of traffic and transportation.
 - (4) *Two-family dwellings, multi-family dwellings and zero-lot-line dwellings and lodging units*: Off-street parking ratios per dwelling unit or lodging unit shall be determined from Table I by applying the applicable FAR. See section 16-28.008(7).
 - (5) All accessory uses cited in section 16-08.004 shall provide one additional space per 300 square feet of floor area devoted to such space.
 - (6) *Other uses*: One space for each 300 square feet of floor area.
 - (7) *Accessory outdoor dining*: Limited to 25 percent of the total gross floor area of the building or business with no parking requirement; over 25 percent must provide one space per 600 s.f. of the total accessory outdoor dining area including the 25 percent non-exempt floor area.

SECTION 7: That Section 16-29.001 (12) entitled “Dwellings and lodgings: Uses and structural types:” is hereby amended to add a new sub-part (a)(7) which shall read as follows:

7. **Dwelling: Accessory – A detached dwelling unit meeting the height requirement of Sec. 16-28.004 and having a floor area of 750 square feet or less on the same lot as a primary dwelling. Accessory dwelling units are distinct dwelling units as defined in 16-29.001(10) (a) with independent kitchen facilities**

SECTION 8: Any ordinances in conflict with this ordinance is hereby waived to the extent of the conflict.