

Chapter 22

LAND USE*

Article II. Zoning

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DIVISION 4. GENERAL CONDITIONS

Sec. 22-84. Nonconforming Buildings and Uses.

The elimination of existing buildings and structures or uses that do not conform with this article is as much a subject of health, safety and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this article. It is also the intent of this article to administer the elimination of nonconforming uses, buildings, and structures so as to avoid any unreasonable invasion of established private property rights.

Any structure or use of land lawfully existing at the time of the enactment of this article and its amendments, but not in conformity with its use ordinances and provisions may be continued subject to the following provisions:

- (1) *Unsafe Structures.* Any structure or portion thereof declared unsafe by an appropriate governing authority may be restored to a safe condition, provided the requirements of this section are met.
- (2) *Alterations.* Any change in a lawfully existing nonconforming building, use, building site or yard area is subject to the following:
 - a. No lawfully existing nonconforming building can be structurally altered, except repairs on the building or installation of plumbing fixtures required by law, the changing of interior partitions, and interior remodeling. Improvements to a lawfully existing nonconforming building shall not exceed 50 percent of the values of the building as determined by the building inspector.
 - b. If a lawfully existing nonconforming building is moved, all nonconforming minimum yard requirements, as defined in Division 6 or elsewhere in this article, must be eliminated.

- (3) *Extension.* A lawfully existing nonconforming use is restricted to the lot occupied by such use as of the effective date of this article. A nonconforming use must not be extended to include either additional building or land, or unless the owner applies for and is granted a variance.
- (4) *Restoration of Damaged Buildings.* Unless otherwise specified, a lawfully existing nonconforming structure that is destroyed (damage equals or exceeds 50 percent of the structure's replacement value, as determined by the building inspector), through no intent of the owner, may be reconstructed or restored to the same nonconforming use if reconstructed and restored to the same nonconforming use.

A lawfully existing nonconforming structure that is damaged less than 50 percent of the structure's replacement value, (as determined by the building inspector), through no intent of the owner, may be reconstructed or restored to the same nonconforming use if reconstructed and restored within 12 months from the time the damage occurred.

- (5) *Discontinuance.* A lawfully existing nonconforming use which became such after the adoption of this article and which has been discontinued for a continuous period for six months, shall not be reestablished and any future use shall be in conformance with this article. Where government action impeded access to land, the time of any resulting discontinuance of a nonconforming use shall not be counted towards the time periods of this section. Except grocery store in residential neighborhood.

(Ord. No. 2050, § 1(Art. IV(6.1), 9-13-99)

Sec. 22-85. Pending Application for Building Permits.

Nothing contained in this article shall require any change in the plans, construction, size or designated use of any building, structure or part thereof, for which a building permit has been granted prior to the adoption of this article, provided construction shall start within 60 days after the granting of such permit.

(Ord. No. 2050, § 1(Art. IV (6-2), 9-13-99)

Sec. 22-86. Off-Street Automobile Parking.

Within Elberton, Georgia, off-street automobile storage or parking space shall be provided on every lot on which any permitted or conditional use is established in accordance with this article.

- (1) *General Requirements.* For the purpose of this article the following general requirements are specified:
 - a. The term “*off-street parking space*” means a space at least nine feet wide and 20 feet in length with a minimum net area of 180 square feet, excluding area of egress and ingress and maneuverability of vehicles.
 - b. If an off-street parking space cannot be reasonably provided on the same lot on which the principal use is conducted, the designated zoning and compliance officer may permit such space to be provided on other off-street property, provided such space lies within 600 feet of the property line of the principal use and is owned by the same owner. The parking space shall be associated with the permitted use and shall not hereafter be reduced or encroached upon in any manner.

- c. The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time.
- d. Area reserved for off-street parking in accordance with the requirements of this article shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, and unless equivalent parking space is provided to the satisfaction of the designated zoning compliance officer.
- e. Off-street parking existing at the effective date of this article in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.

(2) *Parking Space Requirements for All Districts.* Off-street automobile storage of parking space shall be provided with vehicular access to a street or alley, and shall be equal in or to at least the minimum requirements for the specific land use set forth.

Land Use	Parking Requirements
Dwellings:	
1. One and two families	2 spaces for each dwelling unit.
2. Multi-family	1-1/2 space per dwelling unit except for efficiency apartments for which one space per dwelling unit shall be provided.
3. Hotels/Motels	1 space for each bedroom plus 1 additional space for 5 employees on the largest work shift, plus 1 space per three persons to the maximum capacity of each public meeting or banquet room plus 50% of the spaces otherwise required for accessory uses (e.g. restaurants & bars).
4. Tourist Courts, Manufactured Homes and Recreational vehicle parks	1 space for each guest bedroom, manufactured home, or recreational vehicle space, plus one additional space for a resident manager or owner.
5. Boarding and Rooming Houses and Dormitories	1 space for each guest bedroom plus 1 space for every 3 employees on the largest work shift.
Public Assembly:	
1. Private clubs, lodges, fraternal building not providing overnight accommodations	1 space for each 5 members.
2. Theaters, auditoriums, stadiums and similar places of assembly.	1 space for each 4 seats.
3. Library, museums	1 space for each 500 square feet of gross floor area.
4. Schools, including kindergarten, playschools and daycare centers	1 space for each 4 seats in assembly hall, or 1 space for each employee, including teachers and administrators, whichever is greater, plus 5 spaces per classroom for high school and colleges.
5. Skating rinks, dance halls, pool rooms and other places of amusement or assembly without	1 space for each 200 square fee of floor area.

fixed seating arrangements.	
6. Bowling Alleys	4 spaces for each alley or lane.
Health Facilities:	
1. Hospitals, sanitariums, nursing homes, homes for the aged and similar institutional uses.	1 space for each 4 beds (not including bassinets), plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees, including nurses, plus 1 space for each hospital vehicle.
2. Kennels and Animal Hospitals	A parking area equal to 30 percent of the total enclosed or cover area.
3. Medical, dental and health offices and clinics	1 space for each 200 square feet of floor area used for offices and similar purposes.
4. Mortuaries and funeral parlors	Spaces per parlor or chapel unit, or 1 space per 4 seats, whichever is greater.
Business:	
1. Automobile Repair Establishments	1 space for each regular employee plus 1 space for each 250 square feet of floor area.
2. Food stores	1 space for each 200 square feet of floor area designated for retail sales only.
3. Restaurants, including bars, grills, diners, cafes, taverns, night clubs, lunch counters and similar dining and/or drinking establishments.	1 space for each 4 seats provided for patron use, plus 1 space for each 75 square feet of floor area provided by patron use but not containing seats.
4. Office building, including banks, business, commercial and professional offices and buildings but excluding medial, dental and health offices and clinics	1 space for each 300 square feet of ground floor area, plus 1 for each 500 square feed of upper floor area.
5. General business, commercial or personal service establishment catering to the retail trade, but excluding food stores	1 space for each 200 square feet of floor area designated for retail stores only.
6. Governmental offices	1 space for each 300 square feet of ground floor area plus 1 space for each 500 square feed of upper floor area and 1 space for each governmental vehicle.
7. Shopping Centers	5-1/2 spaces for each 1,000 square feet of floor area designated for retail sales only for centers up to 15 acres in size and 8 spaces for each 1,000 square feet of floor area designated for retail sales only for centers of 15 or more acres in size.
8. Furniture Stores	1 space for each 1,000 square feet of gross floor area.
9. Automobile sales lot, new and used.	1 space per 600 square feet of enclosed floor space, plus 1 space for each 3,000 square feet of outside display area. Car display area does not have to be paved but must at a minimum be covered with 4 inches of gravel or crusher run.
10. Public utilities, such as telephone exchanges and substations, radio and floor area	Parking area equal to 25% of gross floor area.

in the building TV stations, and electric power and gas substations	
Industries:	
1. Commercial, manufacturing and industrial establishment, no catering to the retail trade.	1 space for each 3 employees on the maximum working shift, plus 1 each company vehicle on the premises.
2. Wholesale Establishments	1 space for every 50 square feet of customer service area, plus 2 spaces for each 3 employees on the maximum working shift plus 1 space for each company vehicle operating from the premises.

(3) *Parking Area Site Requirements.* All off-street parking shall be laid out, constructed, and maintained according to the following requirements (except for residential lots in the R-1, R-1A, R-1B, and R-2 districts). Off-street parking includes parking spaces or lots for customers and employees.

- a. All parking areas shall be hard surfaces with concrete or plant bituminous material and maintained in dust proof condition.
- b. Lighting facilities shall be arranged so that light is reflected away from adjacent properties and streets.
- c. The parking area shall be adequately drained.
- d. A raised curb of at least six inches shall be erected along all of the property lines, except for driveway openings and those lot lines abutting residential districts where the requirement of section 22-91 shall prevail.
- e. No sign shall be placed within the public rights-of-way. Signs and planting strips shall not obstruct the visibility of drivers or pedestrians.
- f. Interior parking lot landscaping. Off-street parking areas in all zoning districts shall be subject to the following requirements. For the purpose of calculating off-street parking lot square footage, all areas within the lot's perimeter are counted, including the planting islands, curbed areas, corner lots, parking spaces, and all interior driveways and aisles except those with no parking spaces located on either side. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement. The required amount of landscaping is based on the following sliding scale. Landscape provisions only apply to parking area for customers or employees.

Total Area of Lot	Percentage of the Total Area (Sq.Ft.) of lot that must be an Interior Planning Area
0 – 5,000	5.0%
15,000 – 29,999	7.5%
30,000 or greater	10.0%

Off-street parking shall consist of planting islands. Sixty square feet of continuous previous land area is required for each tree with no tree-planting area less than six feet wide in any dimension.

Planting islands shall be evenly spaced throughout the parking lot and shall be distributed approximately once every ten spaces for commercial development. Planting islands parallel to parking spaces must be at least nine feet wide to allow car doors to swing open.

Trees must have a clear trunk at least eight feet above the finished grade to allow vehicular circulation beneath the tree canopy without causing any damage. Deciduous shade trees planted with ground cover or low shrubs are recommended as the primary plant materials. Shrub varieties should be evergreen.

Good visibility in the parking lot is important for security and traffic safety reasons. Plants that restrict visibility, such as tall shrubs or low-branching trees, should be avoided.

To prevent cars from parking too close to trees or damaging shrubs, a curb or wheelstop must be provided.

Trees shall be distributed to break up the parking lot and to create a canopy effect. A minimum of one 15-gallon tree and three shrubs shall be required for every ten parking spaces. The distribution of the trees must maximize shading during the summer months.

- g. Perimeter landscaping adjacent to the public rights-of-way. All commercial and industrial sites, unless otherwise specified in section 22-91 must include a perimeter landscape strip. The strip must be at least 15 feet wide for sites larger than 15,000 square feet, or ten feet wide if the site is smaller. The strip must be located on the property, adjacent to the public rights-of-way and cannot include any paved surfaces, with the exception of pedestrian sidewalks or trails that cross the strip.

Preservation of natural woodland is preferred. If a woodland perimeter strip is preserved, all diseased, dangerous or decayed growth shall be removed. If the natural growth is too dense for preferred growth, the natural growth may be thinned. However, if there is not woodland perimeter, the strip must be planted as follows: one 15-gallon deciduous shade tree and ten evergreen shrubs are required per 35 linear feet of perimeter. Two evergreen or two ornamental trees may be substituted for one shade tree. One shade tree may be substituted for five evergreen shrubs.

Plant materials at vehicular entrances should be located so as to maintain safe sight distances.

If the required planting would result in an inappropriate or impractical design due to underground utilities, overhead wires, or other related factors, a suitable landscape plan, approved by the Planning Commission may be substituted.

- h. Maintenance of perimeter and interior parking lot landscaping. The owner, tenant, and their agent, if any, are jointly and severally responsible for the maintenance of all landscaping in good condition so as to represent a healthy, neat, and orderly appearance and shall be kept free from refuse and debris. All landscaped areas must be watered via an underground sprinkler systems or be provided with a readily available water supply with at least one outlet located within 150 feet of all plant material to be maintained.

All plant growth in landscaped areas must be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard. All planted areas must be maintained in a relatively weed-free condition and clear of undergrowth.

All planting must be fertilized and irrigated at such intervals as necessary to promote optimum growth.

All trees, shrubs, groundcovers, and other plant materials must be replaced during the next suitable planting period if they die or become unhealthy because of accidents, drainage problems, diseases, or other causes.

Replacement plants must conform to all standards that govern the original installation of plantings.

(Ord. No. 2050, § 1(Art. VI(6.3), 9-13-99)

Sec/ 22-87. Off-Street Loading and Unloading Space.

Off-street loading and unloading spaces shall be provided as hereinafter required by this article.

- (1) *Size of off-street loading spaces.* Each off-street loading spaces shall have minimum dimensions of 15 feet in height, ten feet in width, and 30 feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the designated zoning compliance officer may reduce the minimum length.
- (2) *Connection to street or alley.* Each required off-street loading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.
- (3) *Floor area over 10,000 square feet.* Sufficient space for off-street loading and unloading must be provided for each hospital, institution, hotel, commercial or industrial building or similar use requiring the receipt or distribution of materials or merchandise, and having a floor area of more than 10,000 square feet of floor space or fraction thereof. Such space must be located so as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, or alley and shall include one loading berth of each 10,000 square feet of floor area or fraction thereof over the first 5,000 square feet of floor area.
- (4) *Floor area less than 10,000 square feet.* Sufficient off-street loading space (not necessarily a full space if shared by adjacent establishments) must be provided for each commercial or industrial building requiring the receipt or distribution of materials for merchandise and having a floor area of less than 10,000 square feet. The space must be located so as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley. No loading berth is required for any business or industry with less than 3,000 square feet of ground floor area.
- (5) *Bus and trucking terminals.* There shall be provided sufficient space to accommodate the maximum number of buses or trucks to be stored or loaded at the terminal at any one time.
- (6) *Location of off-street loading spaces.* All required off-street loading spaces shall be located on the same lot as the building which they are intended to serve, or on an adjacent lot when the loading spaces are shared with the use occupying said adjacent lot.

- (7) *Permanent reservation.* Area reserved for off-street loading in accordance with this article must not be reduced or changed to any other use unless the permitted use that the off-street loading serves is discontinued or modified. However, and equivalent loading space may be provided and approved by the designated zoning compliance officer.

(Ord. No. 2050, § 1(Art. VI(6.4), 9-13-99)

Sec. 22-88. Control of Curb Cuts and Vision Clearance.

The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:

- (1) *Curb Cuts.* No curb cuts shall be less than nine feet nor exceed 50 feet in length. No curb cut shall be closer than 20 feet to another curb cut or access point, except in residential zoning districts. At street intersections, no curb cut or other access point shall be located closer than 20 feet from the intersecting point of the two street rights-of-way or property lines involved (or such lines extended in case of a rounded corner), whichever is the least restrictive.

A permit must be obtained from the Georgia department of transportation before curb cuts or any other point of access is authorized onto state-owned highway rights-of-way from abutting property.

(Ord. No. 2050, § 1(Art. VI(6.5), 9-13-99)

Sec. 22-89. Classification of Streets.

All streets in Elberton, Georgia, are divided into four classes. Prior to the issuance of any development permit, rights-of-way for existing or proposed street(s) on which the development has frontage shall be dedicated to or transferred to Elberton.

- (1) *Arterials.* An arterial is a high-volume street that should have no residences on it. Its function is to conduct traffic between communities and activity centers and to connect communities to major state and interstate highways. Arterials in Elberton include College Avenue, Elbert Street and Oliver Street. The recommended rights-of-way for an arterial is 100 feet.
- (2) *Collector Streets.* As the principal traffic artery within residential or commercial areas, the collector carries relatively high traffic volumes and conveys traffic from arterial streets to lower order streets. Its function is to promote the free flow of traffic; as such, the city should not encourage parking on residences along a collector. The recommended rights-of-way for a collector is 80 feet.
- (3) *Sub-collector.* The sub-collector provides passage to access streets and conveys traffic to collectors. Like the access street, the sub-collector provides frontage and access to residential lots but also carries some through traffic to lower order (access) streets. The sub-collector is a relatively low volume street. The recommended rights-of-way for a local street is 50 feet.
- (4) *Access Roads.* Sometimes called a place or lane, the access street is designed to conduct traffic between dwelling units and high order streets. The access street usually carries no through traffic and includes short streets, cul-de-sacs, and courts. The recommended rights-of-way for an access road is 60 feet.

(Ord. No. 2050, § 1(Art VI (6.6), 9-13-99)

Sec. 22-90. Storage and parking of Recreational Vehicles, Trailers, and Other Vehicles.

Commercial vehicles and trailers of all types, including travel, boat, camping, and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the following requirements:

- (1) No commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products is permitted.
- (2) Any recreational vehicle, hauling trailer, or boat trailer with a current state license is permitted if parked or stored behind the front yard building line.
- (3) A recreational vehicle shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a recreational vehicle park authorized under this article, or as otherwise stated in this article.
- (4) In all residentially zoned districts it is prohibited to park or store abandoned, wrecked or junked vehicles, power-driven construction equipment, used lumber or metal, commercial vehicles (except those on a service call) or any other miscellaneous scrap or salvageable material in quantity unless it is in an enclosed building. For the purposes of this subsection, an abandoned vehicle is a vehicle without current state license.

In all other districts it is prohibited to park or store abandoned, wrecked or junked vehicles, power driven construction equipment, used lumber or metal, commercial vehicles (except those on a service call), or any other miscellaneous scrap or salvageable material in quantity unless it is:

- a. Within an enclosed building,
- b. It is on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprises,
or
- c. It is on property occupied and used for repair, reconditioning, or remodeling or vehicles.

(Ord. No. 2050, § 1(Art. VI(6.7), 9-13-99)

Sec. 22-91. Buffer Areas.

All required buffer areas and landscape strips are in addition to area, yard, and height requirements for the zoning district as specified in Division 6.

- (1) In any business (B-1, B-2) or industrial (I) district, any operation not conducted within a building, such as outdoor recreation, outdoor storage of materials, and outdoor servicing activities, shall be enclosed by a solid wall or solid fence or tight evergreen hedge not less than eight feet in height. The bottom of the fence must be no higher than four inches from the ground. The top of the fence must not evidence significant elevation changes (i.e. the top of the fence at the highest topographic elevation will determine the height of all portions of the fence, regardless of elevation changes). If constructed from wood, fence height must be achieved by the installation of one continuous eight-foot or grater board. The designated zoning compliance officer shall, based on the

character of the area, determine whether the applicant must install the solid wall, solid fence, or tight evergreen hedge.

- (2) In any district not subject to the requirements of section 2-911(1) but requiring screening of a specified operation, said screening shall be solid wall or solid fence or tight evergreen hedge not less than eight feet in height. The tight evergreen hedge shall grow to at least eight feet in height within five years. There shall be a perimeter landscape strip at least 20 feet wide, unless otherwise specified, that conforms to the planting requirements of section 22-86(g). All buffer area requirements are in addition to the area, yard, and height requirements for that district. Prior to any site construction or grading, the designated zoning compliance officer must approve a landscaping plan prepared by a registered landscape architect that identifies all plants to be incorporated in the buffer area.
- (3) A perimeter landscape strip of ten feet in width or six feet if the commercial or industrial site is less than 15,000 square feet and not regulated by section 22-91(1) and (2) shall be planted in accordance with section 22-86(g), adjacent to the lot line when the following conditions exist or are created:
 - a. A proposed structure will exist on a lot where the side or rear lot line is a district boundary other than B-1, B-2 or I.
 - b. The lot or parcel on the opposite side of the boundary is zoned R-1, R-1A, R-1B, or R-2.
- (4) All outdoor lighting must reflect away from all residential dwellings and shall be situated to not directly reflect into any public rights-of-way.
- (5) Any grading, improvements or construction adjacent to the buffer must not disturb or encroach on the buffer area.
- (6) A manufactured home or mobile home subdivision shall be screened by a solid wall or solid fence or tight evergreen hedge and contain a perimeter landscape strip at 30 feet wide, unless otherwise specified, that conforms to the planting requirements of section 22-86(g). All perimeter landscape strip requirements are in addition to the area, yard, and height requirements for that district. Prior to any site construction or grading, the designated zoning compliance officer must approve a landscaping plan prepared by a registered landscape architect that identifies all plants to be incorporate din the buffer area.
- (7) A ten foot rear and side yard vegetated buffer is required for all multifamily development in addition to required side and rear yards specified in Division 6.
(Ord. No. 2050, § 1(Art. VI(6-8), 9-13-99)

Secs. 22-92 – 22-102. Reserved