

AGENDA
CITY OF BERKELEY LAKE
PLANNING & ZONING COMMISSION SPECIAL-CALLED MEETING
October 25, 2022 at 7:15 PM
4040 South Berkeley Lake Road
Berkeley Lake, GA 30096

- I. CALL TO ORDER**
- II. APPROVAL OF OR CHANGES TO THE AGENDA**
- III. APPROVAL OF MINUTES**
 - 1. September 13, 2022
- IV. OLD BUSINESS**
- V. NEW BUSINESS**
 - 1. PZTA22-04, O-22-245 - amendment of the following sections of the zoning ordinance:
 - Sec. 78-3, *Definitions* to add a definition of Short-Term Rental;
 - Sec. 78-89(g), *Boathouses and Docks* regarding side setbacks;
 - Sec. 78-111, *Walls and Fences* regarding front yard wall and fence regulations; and
 - Sec. 78-203, *RMD Residential Multifamily Duplex District* to add regulations governing short-term rentals.
- CITIZEN COMMENTS**
- VI. DISCUSSION SESSION**
- VII. ADJOURNMENT**

**CITY OF BERKELEY LAKE
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
PLANNING & ZONING COMMISSION MEETING
DRAFT MINUTES
September 13, 2022
7:15 PM**

Those in attendance at the meeting were as follows:

Commission Members: Dan Huntington, Chair
Pekka Ignatius
Rand Kirkus
Robin Sansone

City Administrator: Leigh Threadgill

Citizens Present: 5

I. CALL TO ORDER

Huntington called the meeting to order at 7:15 PM. A quorum was present with Commissioner Bob Erwin absent. City Administrator Leigh Threadgill was also present.

II. APPROVAL OF OR CHANGES TO THE AGENDA

Huntington asked if there were any suggested changes to the agenda.

Ignatius moved to approve the agenda as submitted. Sansone seconded and all voted to approve the agenda.

III. MINUTES

1. Minutes of August 9, 2022

Sansone moved to approve the minutes of the August 9th meeting. Kirkus seconded and all voted to approve the minutes.

IV. OLD BUSINESS

There was no old business.

V. NEW BUSINESS

1. PZV-22-03, 3945 N. Berkeley Lake Rd., Applicant Kenneth Ellsworth, on behalf of owners Malissa Hunter and Eric Wilson, requests relief from Sections 78-141 of the zoning ordinance to alter and expand a non-conforming structure and from Section 78-197(7) to reduce the side setback to 7 feet for a second story addition.

Huntington acknowledged the applicant to introduce the request.

Kenny Ellsworth, with Studio Sogo, 1631 S. Gordon Street, Atlanta, GA, the architect representing the owners, reviewed the application with the Commission.

Huntington asked about the issue of hardship. The idea of a hardship is significant, not just to the Commission but also to the Mayor and Council.

Huntington asked if the ordinance is enforced as written how it creates an unnecessary hardship.

Ignatius asked if there is a reasonable way to accomplish the addition without having to apply for a variance.

There was discussion.

Ellsworth noted it would be difficult structurally and awkward architecturally to add a second story that met the 12.5-foot setback requirement along the south side property line.

Kirkus asked if there are alternatives that can be considered so that the addition does not increase the non-conformity. Ellsworth stated that to meet the setback would shrink the bedroom sizes. The total encroachment is 68 square feet.

There was discussion about the visual impact.

Kerry and Linda Langley, 134 Bayway Circle, located immediately south of the subject property asked for clarification with regard to the requested variances and confirmed that the request was not to allow a reduction in the side setback for the length of the property, but only in those areas where the proposed plan encroached.

Langley showed pictures of the subject structure as seen from her property.

There was further discussion.

Mary Lou Dennison, 3935 N. Berkeley Lake Rd., located on the other side of the subject property noted that the setbacks are there for a reason and for the benefit of all involved.

There was further discussion.

Huntington noted for the record that there is no such thing as a precedent as it relates to variances. No two cases are the same. Every request heard is unique.

The Commission discussed further.

Huntington asked if the variances could be split between the side setback variance and the expansion to the non-conforming structure. There was further discussion.

Sansone moved to continue this discussion so that a revised plan that does not show an encroachment into the side yard could be submitted and considered. The motion failed for lack of a second.

Ignatius moved to approve the request with the exception of anything that encroaches into the side setback so that the expansion conforms with all zoning requirements. Kirkus seconded the motion. All were in favor and the motion passed.

VI. CITIZEN COMMENTS

There were none.

VII. DISCUSSION

There was no further discussion.

VIII. ADJOURNMENT

There being no further business, Ignatuis moved to adjourn. Kirkus seconded the motion. All voted in favor and Huntington adjourned the meeting at 8:33 PM.

Respectfully submitted,

Leigh Threadgill
City Administrator

**City of Berkeley Lake
Staff Analysis**

CASE NUMBER:	TA-22-04, O-22-245
CODE SECTIONS:	78-3, 78-89(g), 78-111 and 78-203
PURPOSE:	VARIOUS ZONING ORDINANCE AMENDMENTS TO ADDRESS SHORT TERM RENTALS, WALLS AND FENCES AND DOCK/BOATHOUSE SETBACKS
MEETING DATE:	OCTOBER 25, 2022 P&Z COMMISSION

BACKGROUND:

This ordinance amendment addresses several topics.

- 1.) Short Term Rentals – Both Sections 78-3 and 78-203 are proposed to be amended to define short-term rental and to authorize and regulate short-term rentals in the RMD, Residential Multi-Family Duplex District.
- 2.) Boathouse and Dock Setbacks – Section 78-89(g) is proposed to be amended to change side setback measurements for docks and boathouses.
- 3.) Walls and Fences – Section 78-111 is proposed to be amended to address front-yard fencing.

ANALYSIS:

Looking at each in turn:

- 1.) There has been increased interest from property owners in utilizing their properties as short-term rentals. Currently there is nothing specific addressing short-term rentals in the zoning ordinance. Staff has interpreted that because it is not listed as a permitted use in any of the city's zoning districts it is not allowed. The proposed amendment includes adding a definition for short-term rental in Section 78-3 and adding short term rental as a permitted use subject to certain requirements in Section 78-203, RMD, Residential Multi-Family Duplex district.
- 2.) Following the last meeting, Chairman Huntington suggested that an amendment be drafted for consideration to change the way that boathouse and dock side setbacks are measured. The proposed side setback measurement change is from side property lines "as projected into the lake" to side property lines "as projected into the lake perpendicular to the shoreline." For some irregularly shaped lots, continuing the same trajectory of the side property lines may create a smaller building envelope for docks and boathouses. See below exhibits from 874 Lakeshore Drive using current and proposed rules. There are other lots that may not be easy to square off at the lake, but this one worked for illustration purposes.



3.) In recent months multiple property owners either have built or have indicated that they plan to build privacy fences around their entire property, including the front yard. This prevents visibility into the front of the property. Without visibility into a lot, there could be opportunity for owners to violate ordinances without anyone's knowledge, such as exceeding lot coverage limits by paving, either with poured concrete or stone pavers. In addition, lots may be unmaintained, outdoor storage rules may be violated, and so forth. The proposed change will limit the height of front yard fencing in residential districts to four feet. In addition, the proposed amendment addresses front yard fencing in non-residential districts. Front yard is defined as extending across the full width of the lot and measured between the front lot line and the front line of the main building.

Sec. 78-3. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory buildings and uses means a subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land including bona fide servants quarters. An accessory use is one which is incidental to the main use of the premises.

Accessory structure means a detached subordinate structure, the use of which is clearly incidental or related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use.

Adjoining and *adjacent* mean lying near, close; neighboring.

Basement means an area below the first floor which may have part but not more than one-half of its height aboveground level.

Boardinghouse and *roominghouse* mean a dwelling in which meals or lodging, or both, are furnished for compensation to more than two but not more than ten nontransient persons.

Building means a structure which is designed and suitable for the habitation or shelter of human beings, or animals, or the shelter or storage of property, or for use and occupation for some purpose of trade or manufacture.

Building, detached, means a building having no party wall common with another building.

Building coverage means that portion of a lot that is covered by buildings as determined by the horizontal area measured within the outside of the exterior walls of the ground floor of all principal buildings, accessory buildings, and accessory structures on the lot, not including steps, terraces, and uncovered porches.

Building line and *setback line* mean a line dropped from the outer edge of any portion of the structure to the surface of the ground.

Business and *business use* mean necessarily requiring employment for one or more persons for the purpose of earning a livelihood, activities or persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.

Customary home occupation means an occupation customarily carried on within a dwelling for gain or support involving the sale of only those articles, products or services produced on the premises, conducted entirely within the dwelling by members of the immediate family residing in the dwelling unit and involving no display of articles or products.

Duplex means a residential structure designed for two-family occupancy.

Dwelling means a building or portion thereof designed exclusively for residential use, including one-family, two-family and multiple-family dwellings but not including hotels, boardinghouses, lodging houses, or house trailers, whether such trailers be mobile or located in a stationary fashion as on blocks or other foundation.

Dwelling, detached, means a dwelling entirely surrounded by open space.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Dwelling unit means a room or suite of two or more rooms that is designed for the occupancy, cooking and sleeping of one or more persons living as a family.

Exterior architectural feature means the architectural treatment and general arrangement of such portion of the exterior of a structure as is designed to be exposed to public view, including kind, color, and texture of the

building material or such portion thereof and the type of all windows, doors, lights, signs and any other fixture appurtenant to such portion.

Family means one or more persons living as a single housekeeping unit and in a single living space. The term "family" does not include any organization or institutional group.

Floor area means the sum of the gross horizontal areas of the several stories of the building measured from the exterior faces of the exterior walls or from the centerline of the party walls; included shall be any basement floor, interior balconies and mezzanines, elevator shafts and stairwells and enclosed porches.

Floor area, single dwelling, means the gross horizontal area of the several floors of the one family residential structure, exclusive of carport, unfinished basement, attic and open porches.

Front and frontage mean that side of a lot abutting on a street or way and ordinarily regarded as the front of a lot, but it shall not be considered as the ordinary side of a corner lot.

Garage, private, means a detached accessory or portion of a main building used for the storage of self-propelled vehicles.

Height of building means the vertical distance from the mean, finished grade level at the front of the building to the highest point of the roof or parapet.

Improvement means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

Incompatible use means a use which is incapable of existing in harmony with other uses situated in its immediate vicinity.

Junkyard means a place where junk, waste, discarded or salvage materials are bought or sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking, and structural steel material or equipment, scrap metal, rags, paper, or other scrap materials, used lumber, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Lot means a developed or undeveloped tract of land in one ownership, legally transferable as a single unit of land.

Lot area means the area of a horizontal plane bounded by the front, side and rear lot lines.

Lot, building, means land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required in the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for building on such land.

Lot, corner, means a lot which occupies the interior angle of two street lines which make an angle of less than 135 degrees with each other.

Lot coverage means that portion of a lot that is covered by impervious surfaces. Impervious surfaces include, but are not limited to, rooftops, buildings, drives, parking spaces, walkways, decks, patios, tennis courts, swimming pools and similar structures, compacted gravel, and any concrete or asphalt surface.

Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot, through, means a lot other than a corner lot having frontage on more than one street.

Lot width means the horizontal distance between the side lot lines measured along the setback or building line as established by this chapter.

Mobile home lot means a parcel of land for the exclusive use of the occupants of a single mobile home.

Mobile home park means a tract of land in single ownership which has been developed with all necessary facilities and services in accordance with a site development plan for the placement of mobile homes for nontransient use.

Mobile homes means a detached, single-family dwelling designed for long-term occupancy; designed to be transported after fabrication on its own wheels, arriving at a site where it is to be occupied as a complete dwelling unit usually, but not necessarily, including appliances and furniture and ready for occupancy. Any such structure shall be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation. Travel trailers or camp-type trailers are not mobile homes.

Modular home means a modular home is a factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure to be used for residential purposes.

Nonconforming building or structure means a building or structure that does not meet one or more setbacks for the zoning district in which said building or structure is located, or a building or structure that exceeds the maximum lot coverage for the zoning district in which said building or structure is located, or a principal building or accessory structure that otherwise does not comply with dimensional requirements established by this ordinance for the particular principal building or accessory structure or for the zoning district in which the nonconforming building or structure is located.

Nonconforming use means any building or land lawfully occupied by a use at the effective date of the ordinance from which this chapter is derived or amendments thereto which does not conform after the passage of this chapter or amendment with the use requirements of this district in which it is situated.

Noxious matter means material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well being of individuals.

Occupancy pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

Office means a room or building in which a person transacts his business or carries on his stated occupation.

Open air market means display and retail sales of new goods, merchandise, and farm products in unenclosed space.

Open space means an unoccupied space open to the sky on a single lot with a building.

Park means a pleasure ground set apart for recreation of the public, to promote its health and enjoyment.

Porch, open, means a roofed open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

Principal use means the primary purpose that a lot serves or is intended to serve.

Private deed restrictions or covenants means private deed restrictions or covenants that are imposed on land by private landowners. They bind and restrict land in the hands of present owners and subsequent purchasers. They are enforced only by the landowners involved and not by any city or other public agency.

Public building means any building held, used or controlled exclusively for public purposes by any department or branch of government without reference to the ownership of the building or of the realty upon which is it situated.

Setback means the distance between a street line and the front building line of a principal building or structure, projected to the side lines of the lot and including driveways and parking areas, except where otherwise restricted by this chapter.

Short-term rental, means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit or portion thereof is provided for lodging for a period of less than 30 days. For the purposes of this definition, a short-term rental shall include all housing types, but shall exclude boarding and rooming houses as they are defined by this code. Short-term rentals shall not constitute professional home offices or home occupations and shall not be subject to the general requirements and performance criteria governing home occupations set forth in Sections 78-204 through 78-207.

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Sign, business or institution identification, means a sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold upon the premises where said sign is located or to which it is affixed.

Sign, flashing, means any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when the sign is in use. For the purpose of this chapter, any revolving illuminated sign shall be considered a flashing sign.

Sign, outdoor advertising, means an attached or freestanding sign that directs attention to a business, commodity or service not normally available on the premises on which the sign is located.

Start and commencement means the doing of some act upon the ground on which the building is to be erected, and in pursuance of a design to erect, the result of which act would make known to a person viewing the premises, from observation alone, that the erection of a building on that land had been commenced.

Storage means holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency which will call for removal of the goods.

Street means a public thoroughfare which affords the principal means of access to abutting property.

Street line means the dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alteration means any change in either the supporting members of a building such as loadbearing walls, columns, beams or girders or in the roof and exterior walls.

Structurally altered means the making of a substantial change in the construction, identity and use of a present building.

Structure means anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. A single structure encompasses all manmade materials which are tightly integrated to form the whole.

Terrace and patio mean an open porch without a permanent roof.

Townhouse means a single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between the walls or roofs having two stories, not including a basement.

Use means:

- (1) Any purpose for which a building or structure or tract of land may be designed, arranged, intended, maintained or occupied, or
- (2) Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Warehouse means a structure or part of a structure for storing goods, wares and merchandise, whether for the owner or for others and whether it is a public or private warehouse.

Way means a street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Width means a dimension measured from side to side at right angles to length.

Yard means an open space at grade between a building and the adjoining lot line occupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard extending across the full width of the lot and measured between the front lot line and the front line of the main building.

Yard, rear, means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

Yard, side, means a yard between the exterior wall of the building and attached structures and the adjacent side line of the lot and extending from the front yard to the rear yard.

Zone and zoning district mean an area within which certain uses of land and buildings are permitted and certain others are prohibited. Yards and other open space are required, lot areas, building height limits and other requirements are established, all of the foregoing being identical for the zone in which they apply.

(Code 2004, § 39-103; Ord. No. O-109-09, 11-19-2009; Ord. No. O-119-10, 12-16-2010; Ord. No. O-143-12, 4-26-2012)

Sec. 78-89. Accessory uses or structures.

- (a) Accessory uses or structures shall be permitted only in rear yards, except as otherwise provided in this chapter.
- (b) No accessory structure shall be erected on a lot prior to the time of construction of the principal structure to which it is accessory, except boathouses and docks.
- (c) Accessory structure requirements apply only to residential zoning districts. Any structure built on commercial or industrial zoned property shall be considered a principal structure.
- (d) Except as otherwise provided in this chapter, accessory structures shall meet the following requirements:
 - (1) *Setbacks.* Accessory structures shall meet setbacks as provided in the table below. In addition to having to meet the setbacks noted herein, accessory structures shall be located so as not to encroach into a required buffer zone.

	Lots adjoining Lake Berkeley	Lots not adjoining Lake Berkeley
Side setback	12.5 feet from interior side lot lines and in the case of a corner lot no closer to the abutting road than the principal structure	12.5 feet from interior side lot lines and in the case of a corner lot no closer to the abutting road than the principal structure
Rear setback	40 feet from the Lake Berkeley shoreline measured at mean water level	20 feet ¹ or in the case of a through lot 50 feet from the edge of the abutting road ¹ 12.5 feet for accessory structures no greater than 150 square feet in area and no taller than 15 feet

- (2) *Height restrictions.* Accessory structures shall not exceed 18 feet in height.
 - (3) *Size limitations.* Accessory structures shall be limited to an area of 550 square feet, provided that the total area of structures on the lot complies with the building coverage and lot coverage requirements of section 78-197.
- (e) Swimming pool and spa structures shall meet the following requirements:
 - (1) Shall have a minimum setback of 12.5 feet from interior side lot lines, or in the case of a corner lot shall be located no closer to the abutting road than the principal structure;
 - (2) Shall have a minimum setback of 15 feet from rear lot line(s) for lots not adjoining Lake Berkeley, or in the case of a through lot shall have a minimum setback of 50 feet from the edge of the abutting road;
 - (3) Shall have a minimum setback of 15 feet from the shoreline measured at mean water level for lots adjoining Lake Berkeley;
 - (4) Shall not exceed 15 inches in height above ground on two sides;

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- (5) Shall meet all requirements of chapter 14, article VIII; and
 - (6) Shall comply with lot coverage requirements of section 78-197.
- (f) Freestanding patio and deck structures shall meet the following requirements:
- (1) Shall be no higher than 30 inches above the ground;
 - (2) Shall have a minimum setback of 12.5 feet from interior side lot lines, or in the case of a corner lot shall be located no closer to the abutting road than the principal structure;
 - (3) Shall have a minimum setback of 12.5 feet from rear lot rear line(s) for lots not adjoining Lake Berkeley, or in the case of a through lot shall have a minimum setback of 50 feet from the edge of the abutting road;
 - (4) May be constructed to the shoreline for lots adjoining Lake Berkeley; and
 - (5) Shall comply with lot coverage requirements of section 78-197.
- (g) Boathouses and docks shall meet the following requirements:
- (1) Shall not extend more than 25 feet into the lake from the natural shoreline;
 - (2) Shall have a minimum setback of 12.5 feet from the side lot line(s) as projected into the lake perpendicular to the shoreline;
 - (3) Shall be at least 75 feet from the opposite shore, as measured from the closest point of the boathouse or dock to the opposite shore;
 - (4) Shall not exceed 14 feet in height measured from the mean water level;
 - (5) Shall be limited in size to a total or combined gross square footage, including the area of the boat slip, of 875 square feet;
 - (6) Shall be limited to a total or combined roof area of 675 square feet; and
 - (7) Shall not have an area enclosed on two or more sides with any material including, but not limited to, screening and glass; except that an enclosed area no greater than 100 square feet is permitted.
- (h) Permitted only in rear yards, exceptions.
- (1) A detached accessory garage may be permitted in the front or side yard provided it has an exterior finish consistent with the primary residence; is located no closer than 65 feet from the edge of the fronting road; meets the setback requirements in section 78-89(d)(1); meets the height restrictions in section 78-89(d)(2); and meets the size limitations in section 78-89(d)(3).
 - (2) An accessory storage shed or work shop may be permitted in the side yard provided it has an exterior finish consistent with the primary residence; meets the setback requirements in section 78-89(d)(1); meets the height restrictions in section 78-89(d)(2); and meets the size limitations in section 78-89(d)(3).
- (i) Recreational vehicles, including but not limited to motor homes, travel trailers, cargo, utility and transport trailers, all-terrain vehicles, boats and personal watercraft, may be parked and/or stored on residential properties subject to the following requirements:
- (1) Only recreational vehicles less than 26 feet in overall length and nine feet in total height (including any trailer) may be parked or stored on residential properties.
 - (2) Recreational vehicles shall be kept on a paved surface and located at least ten feet from a side or rear property line, 40 feet from the edge of Lake Berkeley and 65 feet from the edge of any roadway.

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However, recreational vehicles may be located anywhere on a residential property if in a completely enclosed building.

- (3) Motorhomes, campers, travel trailers, etc. shall not be used as living, sleeping or housekeeping quarters but may be parked anywhere on a residential lot for a period of not more than 24 hours while being loaded or unloaded.
 - (4) Watercraft larger than the size limit in paragraph (1) but not more than 28 feet in length, exclusive of trailer, may be parked on a residential property for maintenance purposes for a period not to exceed 45 consecutive days, subject to the requirements of paragraph (2) above. The watercraft shall be removed when maintenance is completed and there shall be a period of at least six months before the watercraft may be returned to the property. The owner shall notify the OEO in writing prior to placing such watercraft on the property.
 - (5) Recreational vehicles stored on residential properties shall be maintained in a safe and operable condition, including but not limited to proper tire inflation.
- (j) Commercial vehicles parked on residential properties are subject to the following requirements:
- (1) Parking of the following commercial vehicles is permitted:
 - a. Vehicles parked temporarily in conjunction with a commercial service, sale or delivery at the residence.
 - b. Standard passenger automobiles and light-duty pick-up trucks, vans, and SUV's used for daily transportation to and from work.
 - c. A school bus used for the primary purpose of transporting children to and from state licensed or accredited elementary, middle or high schools; provided such vehicle is parked on a paved surface and located at least ten feet from a side or rear property line, 40 feet from the edge of Lake Berkeley and 65 feet from the edge of any roadway.
 - (2) Except as otherwise noted, parking on residential properties shall be prohibited for medium and heavy-duty trucks such as step vans, flat-bed trucks, dump trucks, tow trucks, transport wreckers, tandem axle trucks, cab-on-chassis trucks, tractor cabs; as well as limousines, wheeled attachments, trailers over 20 feet in length, transit buses, earth-moving machinery, and semi-trailers.

(Code 2004, § 39-401; Ord. No. O-31-05c, 2-2-2006; Ord. No. O-61-07, 1-17-2008; Ord. No. O-91-08, 12-18-2008; Ord. No. O-109-09, 11-19-2009; Ord. No. O-171-14, § 1, 9-18-2014)

Sec. 78-111. Walls and fences.

The setback requirements of this chapter shall not prohibit any necessary retaining wall nor prohibit any wall or fence subject to the following requirements:

- ~~(1)~~ (1) In a residential district, no wall or fence shall exceed six feet in height within a side or rear yard, rear yard or or four feet within a front yard and no ~~chainlink~~chain-link fence is permitted in a front yard.
- ~~(2)~~ (2) In a nonresidential district, fencing shall be allowed in the side and rear yard provided it does not exceed eight feet in height. Fencing not exceeding eight feet in height shall be allowed in the front yard in industrial zoning districts subject to the following:
 - a. All front yard fences shall be setback a minimum of five feet from the property lines and planted with a landscape strip consisting of one tree and eight shrubs for each 50 linear feet of strip length. The remaining ground area shall be sodded, seeded or hydroseeded with grass, and/or planted with groundcover species and/or provided with other landscaping material, or any combination thereof.
 - b. Chain-link fencing is prohibited in the front yard.
- ~~(3)~~ (3) Barbed wire is permitted only on top of fences in non-residential districts, a minimum of six feet above the natural grade.
- ~~(4)~~ (4) Walls and fences must be constructed of bricks, masonry, stone, metal, wood, rigid plastic, composite or fiberglass or other weather and decay-resistant materials designed for permanent outdoor use. Wood fences must be constructed of cedar, redwood, pressure-treated pine or other decay-resistant wood. Fences must not be constructed from razor wire, filter fabric, plastic sheeting, plywood, or materials originally intended for other purposes.
- ~~(5)~~ (5) Fences must be installed so that posts and lateral supports are not on the side of the fence facing an adjacent property or public right-of-way, unless exposed on both sides. Concrete block shall have a decorative treatment applied to any side facing adjacent property or public right-of-way.
- ~~(6)~~ (6) Temporary fences constructed of light-duty wire or plastic mesh are permitted in residential districts for residential garden uses only for a period not to exceed six months.
- ~~(7)~~ (7) The provisions of this section shall not apply to barriers erected for erosion and sedimentation control, tree protection, safety or security during construction or land disturbance activities.

(Code 2004, § 39-501; Ord. No. O-173-14, § 1, 9-18-2014)

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Sec. 78-203. RMD residential multifamily duplexes.

- (a) This zoning district is intended to provide a mixed residential area for both single-family and duplex use.
- (b) The minimum area required for designation in the RMD multifamily residence district is ten acres.
- (c) Within the RMD multifamily residence district, the following uses are permitted:
 - (1) Residential structures designed for one- or two-family occupancy.
 - (2) No more than one duplex may be constructed on each lot of record.
 - (3) To partially offset the greater density of development, the minimum lot area and minimum floor space for duplexes is 50 percent larger than that required for single-family structures.

(4) Short-Term Rentals subject to the following standards:

a. *Permit required.* No person shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as short-term rental, as defined in this Code, without first obtaining a permit from the city clerk and complying with the regulations contained in this section. No permit issued under this chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

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b. *Application for permit.* Applicants shall submit, on an annual basis, an application for a short-term rental permit to the city clerk. Such application shall include:

1. The name, address, telephone and email address of the owner(s) of record of the dwelling unit for which a permit is sought. Applications shall be limited to owner-occupiers receiving a current homestead exemption through Gwinnett County;

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2. The address of the dwelling unit to be used as a short-term rental;

3. The name, address, telephone number and email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;

4. The owner's sworn acknowledgment the he or she has received a copy of this section, has reviewed it and understands its requirements;

5. The number and location of off-street parking spaces allotted to the premises;

6. The owner's agreement to use his or her best efforts to assure that use of the premises by short-term rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties; and

7. Any other information that this chapter requires the owner to provide to the city as part of an application for a short-term rental permit. The city clerk shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.

8. If the rental agent changes, the property owner shall notify the city within five business days.

9. Application fees shall be as established by the city council.

c. All short-term rentals shall be subject to excise tax pursuant to Chapter 34 of this Code.

d. All short-term rentals shall be subject to the nuisance and noise regulations pursuant to Chapter 26 of this Code.

e. The city clerk shall conduct a reasonable search of the city's records to determine if the applicant property has been the subject of two or more citations for a violation of the City Code in the

preceding calendar year. If the search reveals two or more citations, without regard to a finding of adjudication of guilt, the permit shall not be renewed.

f. No property authorized by this subsection for short-term rentals may list the property for such use for more than 180 days per calendar year.

g. There shall be only one short-term rental of the premises during any particular time period.

(45) Except as stated above, RMD shall otherwise include and be subject to all of the regulations of the R-100 zoning district.

(Code 2004, § 39-810; Ord. No. O-106-09, 11-19-2009)

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