

**ARTICLE 1
PREAMBLE AND ENACTMENT**

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Sec. 1.1. Title.

This Ordinance shall be known as and may be cited as the City of Flowery Branch Zoning Ordinance.

Sec. 1.2. Authority.

The Flowery Branch Mayor and City Council is authorized by state constitutional grant of authority and various statutes and administrative rules of the state of Georgia to enact and enforce the provisions of this zoning ordinance. Those grants of authority include but are not limited to those described in this Section.

- (a) Article 9, Section 2, Paragraphs 3 and 4 of the Constitution of the State of Georgia;
- (b) The Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.);
- (c) Pursuant to Georgia Code Section 36-70-3, the governing bodies of municipalities and counties are authorized to develop, establish, and implement land use regulations which are consistent with the comprehensive plan of the municipality or county;
- (d) The local government's ability to exercise the power of zoning is specifically recognized in Georgia Code Section 36-70-5 and is not otherwise limited or compromised except as provided by law;
- (e) Pursuant to Georgia Code Section 50-8-2, in order to maintain its status as a "qualified local government," a local government must establish regulations consistent with its comprehensive plan;
- (f) Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) have been adopted to implement the Georgia Planning Act of 1989. Said standards and procedures were ratified by the Georgia General Assembly, and have since been amended. Said rules require local governments that adopt a comprehensive plan pursuant to the Georgia Planning Act of 1989 to describe regulatory measures and land development regulations needed to implement local comprehensive plans. As provided in Georgia Code Section 50-8-12, the powers given to the Georgia Department of Community Affairs do not limit or compromise the right of the governing authority of any county or municipality to exercise the power of zoning;

- (g) The local government has adopted a Comprehensive Plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and the comprehensive plan has been revised from time to time;
- (h) The Metropolitan North Georgia Water Planning District is authorized to develop and has developed regional and watershed-specific plans for storm-water management, waste-water treatment, water supply, water conservation, and the general protection of water quality, and such plans are required pursuant to Georgia Code Section 12-5-572 to be implemented by local governments in the district. Local governments are required to implement said plans by Georgia Code Sections 12-5-582 and 12-5-583, and failure to do so means that the local government shall be ineligible for state grants or loans for water supply and conservation projects determined by the Director of the Environmental Protection Division to be inconsistent with such plans. Said district pursuant to state law has prepared model ordinances for local governments to follow;
- (i) As provided in Georgia Code Section 36-34-1, the General Assembly has vested certain general powers in the governing body of each of the municipal corporations of the state of Georgia, such powers being in addition to or cumulative of those which any municipal corporation may now have under its charter or any other special or general law. Such powers include authority to exercise certain common functions of local government and to provide for local self-government to the extent of the powers granted;
- (j) The municipality is permitted pursuant to Georgia Code Section 36-35-6.1 the right to enact restrictions on signs which are not otherwise limited by said Code Section or other law;
- (k) Pursuant to the Municipal Home Rule Act of 1965 (Georgia Code Section 36-35-3) the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto;
- (l) Pursuant to Georgia Code Section 36-65-1, it is declared by the General Assembly of Georgia that in the exercise of powers specifically granted to them by law, local governing authorities of cities and counties are acting pursuant to state policy.

Sec. 1.3. Purposes.

The purposes of this Ordinance include but are not limited to the following:

- (a) Implement the comprehensive plan including goals and policies not currently implemented by land use regulations of the City;
- (b) Promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens in the City;

- (c) Promote responsible growth, lessen congestion in the public streets, secure safety from fire and health dangers, and promote desirable living conditions;
- (d) Provide adequate access to natural light and air;
- (e) Regulate the height, bulk, and the size of buildings, structures and land activities;
- (f) Classify land uses, set out zoning and overlay districts, establish procedures for the handling of certain land use matters, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population;
- (g) Prevent the encroachment of incompatible land uses within residential areas, protect property against blight, preserve property values, and promote desirable living conditions and stable neighborhoods;
- (h) Maintain the integrity and individual character of established communities and settlements, and promote desired character in new developments;
- (i) Attain attractive and function business and employment areas, reserve suitable land for industry, and prevent land-inefficient and poorly functioning strip-type development
- (j) Insure a planned approach to community needs for infrastructure expansion and improvements, and provide for planned and orderly growth consistent with the provision of needed public and private facilities and services;
- (k) Protect and preserve sensitive natural areas and vital natural resources and avoid environmental degradation and other undesirable consequences of irresponsible or shortsighted land management;
- (l) Minimize or eliminate visual clutter and traffic hazards resulting from excess business advertising and other signs, while retain forms of protected speech;
- (m) Provide for “smart” growth principles and practices;
- (n) Those additional purposes and intentions as articulated in the various Articles and Sections of this zoning ordinance.

Sec. 1.4. Findings Regarding Aesthetics and Additional Purposes.

Traditional regulations, such as height and bulk of buildings, setbacks, and yards are grounded in public health, safety, and welfare public purposes, but they are also adopted out of concern for the look of things. Promoting healthy, safe, spacious, and quiet residential neighborhoods by necessity also includes attention to the aesthetics of development.

Nauseous smells have historically come under the ban of the law, but other ugly sights and discordant surroundings may be just as distressing to keener sensibilities. There are links between community appearance and property values, and aesthetic regulations have non-aesthetic purposes supporting such restrictions, such as the preservation of property values, the community’s cultural setting, the economic interest in tourism, and intangible human values. It is in the public interest to direct and control the visual appearance of the community, to prevent

patently offensive harm to the existing visual character of the community, because happiness, comfort, and general well-being of citizens result from an aesthetically pleasing environment.

The Governing Body finds that its citizens have widely shared human values related to the visual environment. The desire to protect certain features of the visual environment reflects a widespread pattern of community preference rather than simply the desires of a narrow elite. That finding is supported by community visioning and character area delineation completed as a part of the local government's comprehensive planning process. These regulations are therefore based on the visual sensibilities of the average person in the community. The Governing Body finds further that visual harm to a widespread pattern of community preference can occur without the imposition of the provisions of this ordinance, which places limitations on or prohibits altogether certain uses, structures, and practices that would be out of harmony or incongruent with the distinctive character or visual features of the surrounding area.

After careful study of specific existing features of the visual environment, the Governing Body finds that reasonable and intelligible standards can be established for implementation and administration to protect areas from associational dissonance – these include neutral and objective criteria such as (among others) height, bulk, scale, placement, topography and building materials. The regulations contained herein are reasonably related to legitimate public purposes and the minimum necessary to prevent substantial harm to existing features of the visual environment selected for protection.

Sec. 1.5. Adoption and Effective Date.

The Council of the City of Flowery Branch hereby ordains that the following articles and sections, which collectively constitute the City of Flowery Branch Zoning Ordinance, are hereby adopted. This Ordinance shall take effect and be in force from and after the adoption and enactment of this Ordinance, the public health and welfare demanding it.

Original Date of Adoption: _____
Date of Update: _____

James M. Miller, Mayor

Amanda Swafford, Post 1

Chris Fetterman, Post 2

Kristopher Yardley, Post 3

Joe Anglin, Sr., Post 4

Tara Richards, Post 5

ATTEST

Marja Burney, City Clerk

APPROVED AS TO FORM

E. Ronald Bennett, Jr., City Attorney