

11-O-0533

**AN ORDINANCE
BY COUNCILMEMBER ARCHIBONG
AS SUBSTITUTED BY ZONING COMMITTEE (#6)**

Z-11-12

A SUBSTITUTE ORDINANCE TO AMEND CHAPTER 32B NC-2 EAST ATLANTA VILLAGE NEIGHBORHOOD COMMERCIAL DISTRICT OF THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA CODE OF ORDINANCES FOR THE PURPOSE OF ADDING SPECIFIC REGULATIONS; AND FOR OTHER PURPOSES.

WHEREAS, the NC-2 East Atlanta Village Neighborhood Commercial District and its boundaries were created by Ordinance 01-O-1169/Z-01-55; and

WHEREAS, the NC-2 East Atlanta Village Neighborhood is interested in creating a vibrant commercial district that is supportive of a quality of life that is conducive to attracting and keeping thriving entrepreneurs in the neighborhood; and

WHEREAS, the East Atlanta Village Neighborhood is currently the only commercial district in the NC category that does not have unique or specific regulations for its neighborhoods; and

WHEREAS, the residents, business and property owners have requested the enactment of specific zoning regulations for the NC-2 District to meet the needs of the community; and

WHEREAS, the proposed zoning regulations are keeping with the purposes and intent of the regulations of the Neighborhood Commercial District; and

WHEREAS, the proposed zoning regulations are intended to have not only have a positive impact on the East Atlanta Village Neighborhood, but on all of the citizens in southeast Atlanta; and

WHEREAS, the proposed legislation would implement some of the recommendations of the South Moreland Avenue LCI Study, adopted by the Atlanta City Council in 2008;

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

Section 1: That the 1982 Zoning Ordinance of the City of Atlanta is hereby amended by inserting the following language in Chapter 32B. NC-2 East Atlanta Village Neighborhood Commercial District, which shall read as follows:

Section 16-32B.001. - Scope of provisions.

The regulations set forth in this Chapter are the specific regulations for the NC-2 East Atlanta Village Neighborhood Commercial District. The following NC-2 District regulations shall apply in addition to those of the general Neighborhood Commercial (NC) District regulations. Where these NC-2 District regulations conflict with the general NC regulations, these NC-2 regulations shall control.

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Section 16-32B.002. - Specific Regulations.

The following regulations are specific to the NC-2 East Atlanta Village Neighborhood Commercial District:

- 1. NPU notification. In addition to the required SAP submittal, the applicant shall also provide to the Director of the Office of Planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the Office of Planning prior to any SAP approval.
- 2. Permitted Principal Uses: In further limitation of those permitted principal uses and structures set forth in Sec. 16-32.005:
 - a. The number of automobile service stations within the district shall not exceed two (2).
 - b. The number of tattoo and body piercing establishments shall not exceed three (3).
 - c. The following uses shall be permitted if the parcel on which they are located is separated by a minimum distance of 500 linear feet, measured from property line to property line, from any like use: barber shops, beauty supply, beauty school, hair salons, and manicure and nail salons. This shall not be construed to mean that a mixture of the above said uses as part of a single parcel or business establishment shall be prohibited. Said uses or combination of uses shall not exceed 4,000 square feet of floor area.
 - d. Parking structures and surface lots to serve primary uses within the district.
 - e. The following uses shall not have establishments exceeding 8,000 square feet of floor area, except where permitted by special use permit issued pursuant to Section 16-32.007:
 - i. Commercial recreation establishments, including theaters and health and fitness establishments, and other places of assembly and similar uses with primary activities conducted within fully enclosed buildings.
 - ii. Banks, credit unions, savings and loan associations, and similar financial institutions but not including any drive-through service window. Automatic teller machines and night drops are permitted.
 - f. The following uses shall not have establishments exceeding 12,000 square feet of floor area: professional offices, studios, and clinics (including veterinary if animals are kept within soundproofed buildings).
 - g. New telecommunication towers or wireless data equipment or structures within the central commercial area bounded by Moreland Avenue on the west, McPherson Avenue on the north, Flat Shoals Avenue on the east, and Glenwood Avenue on the south. New telecommunication towers or wireless data equipment and structures shall only be permitted outside the central commercial area in accordance with the criteria set forth in Sec. 16-25.002(3)(i)(iv)(c) demonstrating that such new tower is necessary. In establishing necessity, the applicant must provide a radio frequency analysis or other scientific study demonstrating why the tower or equipment is necessary outside of the permitted area. Economic considerations may not be used to establish necessity. The restrictions contained herein shall not be construed to include collocation of telecommunications equipment on existing buildings or structures.
- 3. Prohibited Uses: In further limitation of those permitted principal uses and structures not permitted, as set forth in Sec. 16-32.005:
 - a. Pawn shops.
 - b. Title loan and Payday loan/Advancement shops. This shall not be construed to include check cashing services.

4. Special Use Permits: In further limitation of those uses only permissible by special use permit set forth in Sec. 16-32.007:
 - a. The following establishments greater than 8,000 square feet of floor area: Commercial recreation establishments, including theaters and health and fitness establishments, and other places of assembly and similar uses with primary activities conducted within fully enclosed buildings.
 - b. The following establishments between 8,000 and 15,000 square feet of floor area: Banks, credit unions, savings and loan associations, and similar financial institutions but not including any drive-through service window.
5. Special Administrative Permits: In further limitation of outdoor display or sales areas permitted by special administrative permit set forth in Section 16-32.007(2), the following shall apply:
 - a. Outdoor display or sales areas shall not be permitted along Moreland Avenue or any parcel that shares a side yard with Moreland Avenue.
 - b. Outdoor display or sales areas shall display copies of the Business License and the approved Special Administrative Permit, name of the sales area Owner and Owner's contact information, at all times during hours of operation.
 - c. White tents that are 10 feet by 10 feet in size shall be required and all goods shall be stored within the tents.
 - d. Amplified music shall not be permitted and lighting shall not extend beyond the perimeter of the tent.
6. Transitional yards. In addition to the general NC district requirements of Section 16-32.009, such yards shall be planted with evergreen trees spaced a maximum distance of 20 feet on center. Said trees shall be a minimum of two and one-half inches in caliper as measured 36 inches above ground, shall be a minimum of 12 feet in height, and shall have a 25 feet minimum mature height. In the transitional yards abutting parking structures, such trees shall be planted in a staggered double row spaced a maximum of 20 feet on center. Notwithstanding the foregoing, all plantings, planting replacement and planting removal shall be approved by the city arborist.
7. Maximum building heights.
 - a. Properties along the west side of Moreland Avenue south of Glenwood Avenue: Buildings within 150 feet of an R-1 through R-5 and PD-H district boundary shall have a maximum height of 35 feet and a total of three (3) stories. Structures that are between 150 feet and 300 feet from an R-1 through R-5 and PD-H district boundary shall have a maximum of height of 52 feet.
 - b. Properties with frontage along the east side of Moreland Avenue: Buildings shall have a maximum height of ~~104~~ feet and a total of eight (8) stories.
 - c. All other areas: Buildings within 150 feet of an R-1 through R-5 and PD-H district boundary shall have a maximum height of 42 feet and a total of three (3) stories. Structures that are between 150 feet and 300 feet from an R-1 through R-5 and PD-H district boundary shall have a maximum of height of 66 feet and a total of five (5) stories.
 - d. Mezzanines and lofts shall be considered a story.
 - e. Building heights shall comply with the transitional height plane requirements of Section 16-32.009.
8. Active-uses shall be required at the sidewalk-level of all buildings and structures, including parking decks.

- a. All buildings shall have a defined sidewalk-level for purposes of the active-use requirement. Active uses shall be required within buildings and parking structures at sidewalk-level for the entire length of said building facade except at ingress and egress points into parking structures or loading areas. When two or more floors meeting the definition of sidewalk-level exist within the same structure, this requirement shall only apply to the frontage of the sidewalk-level adjacent to the required sidewalk or provided supplemental zone.
 - b. Sidewalk-level: any building floor within five (5) vertical feet of the adjacent required sidewalk or provided supplemental zone.
 - c. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and shall not include parking, non-residential storage areas, driveways, or queuing lanes parallel to the adjacent street.
 - d. Minimum active use depths shall be provided as follows:
 - i. Buildings with residential uses at the sidewalk-level with no residential units located above or below a unit: a minimum depth of 10 feet as measured from the street-facing building facade.
 - ii. All other uses: a minimum depth of 20 feet as measured from the street-facing building facade.
9. Rooftop dining: Outdoor rooftop dining and outdoor amplified music shall not be permitted within 50 feet of any R-1 through R-5 district.
10. Outdoor dining. (In addition to encroachment agreement required as applicable by the Department of Public Works) Sidewalk-level outdoor dining may locate either within supplemental zones or by encroaching into the sidewalk clear zone. When outdoor dining encroaches into the sidewalk clear zone, the following criteria shall be met:
- a. Shall have a minimum of six (6) feet wide of unobstructed sidewalk clear zone area;
 - b. No permanent structure or ornamentation shall be located within the area where encroachment is permitted and no element shall be attached to the sidewalk in any way;
 - c. At such time as the outdoor dining use is discontinued, sidewalks shall comply with all requirements of this chapter; and
 - d. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of thirty-six (36) inches including any plant material.
11. Dumpsters, bulk storage containers and other loading areas: In addition to the general NC district requirements of Section 16-32.018, the following additional restrictions shall apply:
- a. Shall be paved with impervious materials.
 - b. Shall be enclosed with a self-closing opaque gate and opaque walls or fencing. Said gate, walls and fencing shall be a minimum of twelve (12) inches higher than the dumpster receptacle. The maximum combined height of a dumpster and screening walls or fencing shall be seven (7) feet.
12. Building mechanical and accessory features: In addition to the general NC district requirements of Section 16-32.018, the following additional restrictions shall apply:
- a. When not located on rooftops and visible from the right-of-way shall be screened with landscaping consisting of a continuous hedge of evergreen shrubs, which shall be a minimum height of three (3) feet at time of planting and shall be maintained by the property owner.
 - b. When located on rooftops shall be placed at least ten (10) feet from the primary street front edge of the rooftop.

13. Fencing: Barbed wire and razor wire shall not be permitted. Chain link fencing, other solid fencing, barbed wired, and razor wire shall be prohibited in the front yards of properties along Flat Shoals Ave. and Glenwood Ave. In addition to the general NC district requirements of Section 16-32.015, any chain link fencing where permitted, shall be black or dark green vinyl coated. Barbed wire and razor wire shall not be permitted.
14. Lighting: In addition to the general NC district requirements of Section 16-32.021, all exterior lighting shall reduce light spillage onto adjacent properties by providing cutoff luminaries that have a maximum 90 degree illumination directed downwards and which shall not shine on any adjacent residentially zoned property.
15. Curb cuts: In addition to the general NC district requirements of Section 16-32.020, two curb cuts serving two one-way driveways shall only be counted as one curb cut.
16. Off-Street Parking Requirements: In addition to the general NC district requirements of Section 16-32.023, the following parking requirements shall supplant the requirements for the uses specified below in the Table. The Director of the Office of Planning may approve through a Special Administrative Permit a reduction of parking through an off-site shared parking arrangement between any parcels located within the NC-2 district in accordance with the requirements of Section 16-32.023(3).

NC-2 East Atlanta Village Neighborhood Commercial District: Parking Table	
Permitted Use	Minimum Parking Requirement
<ul style="list-style-type: none"> Banks and similar institutions Clothing and Tailor Shops Office Retail Establishments (including catering, delicatessen and bakeries) Sales and Repair Establishments Laundry and dry cleaning pick-up stations and coin operated Laundromats. 	1 space per 300 square feet of floor area
<ul style="list-style-type: none"> Dwellings and Lodgings 	1 space per unit
<ul style="list-style-type: none"> All other uses 	As specified in Section 16-32.023
<ul style="list-style-type: none"> Electric Vehicle Charging Requirements 	None

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

JUL 15, 2013
JUL 24, 2013