

**AN ORDINANCE OF THE CITY OF DUNWOODY AMENDING AND READOPTING
CHAPTER 16 (LAND DEVELOPMENT)**

WHEREAS, the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody Land Development Code, codified as Chapter 16 of the City of Dunwoody Code of Ordinances, was adopted as part of the initial adoption of Ordinances and stems from the DeKalb County version, with minor amendments since incorporation of the City; and

WHEREAS, the City of Dunwoody has undertaken a comprehensive re-write of the Land Development Code in order to prepare development regulations that are illustrated and as easy to use, administer and enforce as possible and to improve and clarify the development review process; and

WHEREAS, the Mayor and City Council have reviewed this comprehensive rewrite of the Dunwoody Land Development Code and find that it furthers the City's intended policies and plans and will better serve as development regulations for the future of the City's development.

THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY HEREBY ORDAIN AS FOLLOWS:

Section 1: Chapter 16 (Land Development) of the City of Dunwoody Code is hereby revised and readopted in total as attached hereto and incorporated herein as Exhibit A. Upon final vote and adoption, the attached document shall become the City of Dunwoody Land Development Code.

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2013.

Approved:

Michael G. Davis, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

City Attorney

**AN ORDINANCE OF THE CITY OF DUNWOODY AMENDING AND READOPTING
CHAPTER 27 (ZONING ORDINANCE)**

WHEREAS, the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody Zoning Ordinance, codified as Chapter 27 of the City of Dunwoody Code of Ordinances, was adopted as part of the initial adoption of Ordinances and stems from the DeKalb County version, with minor amendments since incorporation of the City; and

WHEREAS, the City of Dunwoody has undertaken a comprehensive re-write of the Zoning Ordinance in order to ensure consistency with the City's adopted Master Plans, eliminate inconsistencies and redundancies, ensure that the Zoning Ordinance is consistent with State Law and better integrate and reference other development regulations; and

WHEREAS, the Mayor and City Council have reviewed this comprehensive rewrite of the Dunwoody Zoning Code and find that it furthers the City's intended policies and plans and will better serve as the planning document for the future of the City's development; and

WHEREAS, a properly advertised public hearing, pursuant to the Zoning Procedures Act, was conducted to review this proposed amendment and to accept public comment on same, prior to the final adoption of this Ordinance.

**THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY
HEREBY ORDAIN AS FOLLOWS:**

Section 1: Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code is hereby revised and readopted in total as attached hereto and incorporated herein as Exhibit A. Upon final vote and adoption, the attached document shall become the City of Dunwoody Zoning Code.

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2013.

Approved:

Michael G. Davis, Mayor

#L.3.

STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2013-XX-XX

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

City Attorney



Zoning and Land Development Regulations Rewrite

Chapter 16 | Land Development Regulations

Public Review/Hearing Draft
May 30, 2013

Many of the provisions in this draft are identical or very similar to those currently in Chapter 16 of the city code. Despite the similarities, there *are* substantive changes and new concepts interspersed among the existing provisions. These proposed changes are identified through the use of footnotes and occasional underline (new/changed material) and ~~striketrough~~ (deleted material) text. The absence of footnotes and identified redline changes is an indication that the provisions do not constitute a substantive modification, but most all of the provisions have been edited for internal consistency and clarity.

The major changes made between the February 15 and April 30, 2013 drafts are as follows:

- Article 3 (Required Public Improvements): establishes new proposed thresholds governing when applicants for building permits or development permits are required to dedicate right-of-way and install other public improvements.
- Article 9 (Stormwater Management): several new provisions added to reflect Metropolitan North Georgia model ordinance requirements.
- ~~16-10.30-E (tree removal from single family residential lots): added new provision requiring property owners to notify city arborist before removal of trees. This was an issue discussed at length and receiving majority support at the March 5 public workshop. (See explanation of Sec. 16-10.50-D, below)~~
- Article 14 (Minor Subdivision): establishes a new expedited procedure for subdivisions that:
 - will result in the creation of no more than 3 lots;
 - do not require utility extensions (other than individual service lines); and
 - do not require additional right-of-way dedication or new streets or street improvements.

The major changes made since release of the April 30, 2013 draft are as follows:

- 16-3.20-E (Required Public Improvements): new item (E) added to the applicability provisions.
- 16-9.40-B.2 (Stormwater Detention Storage Requirements) New provision added allowing city-waiver of detention storage requirements when such waiver will not have negative impacts.
- 16-10.50-D (Removal of Specimen Trees) revised to allow single-family property owners to remove a maximum of one specimen tree per calendar year without replacement. Additional trees may be removed only subject to tree replacement provisions.
- 16-12.30-C removes (currently unused) "method of disclosure provision"
- 16-16.20-D (Subdivisions/Lots Bordering Major Streets) authorized city to place reasonable limits on access (driveways) along major streets
- 16-17.40-H.9 (Bike Lanes) clarifies bike lane width requirements

Contents

PART I: INTRODUCTORY PROVISIONS.....i

Article 1	Legal Framework	1-1
Article 2	Rules of Language and Interpretation	2-1
Article 3	Required Public Improvements	3-1
Article 4	Definitions	4-1

PART II: ENVIRONMENT AND NATURAL RESOURCES.....4-1

Article 5	General Provisions	5-1
Article 6	Grading.....	6-1
Article 7	Soil Erosion, Sedimentation and Pollution Control.....	7-1
Article 8	Stream Buffers	8-1
Article 9	Stormwater Management	9-1
Article 10	Tree Preservation	10-1
Article 11	Groundwater Recharge Areas	11-1
Article 12	Flood Damage Prevention	12-1

PART III: SUBDIVISIONSi

Article 13	General Provisions	13-1
Article 14	Minor Subdivision Procedure	14-1
Article 15	Major Subdivision Procedure	15-1
Article 16	Subdivision Design	16-1
Article 17	Subdivision Improvements.....	17-1
Article 18	Subdivision Variances.....	18-1

APPENDICESi

Appendix A	Tree Replacement Density Factor Calculations	1
Appendix B	Tree Selection.....	5
Appendix C	Tree Transplanting	7
Appendix D	Planting Standards	9
Appendix E	Substantial Building Permits.....	10

PART I: INTRODUCTORY PROVISIONS

Article 1 Legal Framework1-1

16-1.10 Title 1-1

16-1.20 Purpose and Intent..... 1-1

16-1.30 Minimum Requirements 1-1

16-1.40 Compliance with Other Laws..... 1-1

16-1.50 Conflicting Provisions 1-1

16-1.60 Severability..... 1-2

Article 2 Rules of Language and Interpretation2-1

16-2.10 Meanings and Intent 2-1

16-2.20 Tenses and Usage..... 2-1

16-2.30 Conjunctions 2-1

16-2.40 Computation of Time 2-1

16-2.50 Headings and Illustrations..... 2-2

16-2.60 References to Other Regulations 2-2

16-2.70 Current Versions and Citations..... 2-2

16-2.80 Lists and Examples 2-2

16-2.90 Delegation of Authority..... 2-2

16-2.100 Public Officials and Agencies 2-2

Article 3 Required Public Improvements3-1

16-3.10 Purpose 3-1

16-3.20 Applicability..... 3-1

16-3.30 Requirements..... 3-1

16-3.40 Construction..... 3-2

16-3.50 Deferral and Fee in Lieu of Improvements 3-2

16-3.60 Appeals..... 3-3

Article 4 Definitions.....4-1

16-4.10 Terms Defined 4-1

Article 1 Legal Framework¹

16-1.10 Title

The official title of this chapter (chapter 16) is the *Land Development Regulations of the City of Dunwoody, Georgia*. For convenience, it is referred to throughout this chapter 16 as the “land development regulations.”

16-1.20 Purpose and Intent

This chapter is enacted by the city council in order to promote the public health, safety, morals and general welfare of the residents of the city and to help implement relevant provisions of the comprehensive plan and other adopted plans and policies.

16-1.30 Minimum Requirements

In their interpretation and application, these land development regulations must be held to be the minimum requirements for the promotion of the public health, safety and general welfare. The regulations must be liberally construed in favor of the city.

16-1.40 Compliance with Other Laws

In addition to the requirements of this chapter, all development must comply with all other applicable state and federal regulations.

16-1.50 Conflicting Provisions

16-1.50-A. State or Federal Regulations

If the provisions of these land development regulations are inconsistent with those of the state or federal government, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.

16-1.50-B. Other City Regulations

If the provisions of these land development regulations are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision governs unless otherwise expressly stated. [If the regulations of these land development regulations conflict with the city's standards and specifications, the standards and specifications govern.](#)

16-1.50-C. Private Agreements and Covenants

1. These land development regulations are not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of these land development regulations

¹ Most of the provisions of this article are new, but they do not represent a substantive change of practice. Some individual articles within existing chapter 16 include one or more similar provisions (e.g., severability).

impose a greater restriction than imposed by a private agreement or covenant, the provisions of these land development regulations control.

2. Private restrictive covenants to which the city is not a party are not regulated by or enforced by the city.

16-1.60 Severability

The several provisions of these land development regulations are separable in accordance with the following rules:

- 16-1.60-A.** Should any court of competent jurisdiction adjudge any section or provision of these land development regulations to be invalid, such judgment does not affect the validity or continued application of the land development regulations as a whole or any section or provision other than the sections or provisions specifically adjudged to be invalid.
- 16-1.60-B.** If any court of competent jurisdiction adjudges as invalid the application of any section or provision of these land development regulations to a particular property, building or structure, such judgment does not affect the application of the section or provision to any other property, building or structure.

Article 2 Rules of Language and Interpretation²

16-2.10 Meanings and Intent

The language of these land development regulations must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in these land development regulations (See, for example, [Article 4](#)) have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined in these land development regulations have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

16-2.20 Tenses and Usage

- 16-2.20-A.** Words used in the singular include the plural. The reverse is also true.
- 16-2.20-B.** Words used in the present tense include the future tense. The reverse is also true.
- 16-2.20-C.** The words “must,” “will,” “shall” and “may not” are mandatory.
- 16-2.20-D.** The word “may” is permissive, and “should” is advisory, not mandatory or required.
- 16-2.20-E.** When used with numbers, “up to x,” “not more than x” and “a maximum of x” all include “x.”
- 16-2.20-F.** The word “lot” includes the word “plot.”
- 16-2.20-G.** The word “used” is deemed to also include “designed, intended or arranged to be used.”
- 16-2.20-H.** The word “erected” is deemed to also include “constructed,” “reconstructed,” “altered,” “placed,” “relocated” or “removed.”
- 16-2.20-I.** The terms “land use” and “use of land” are deemed to also include “building use” and “use of building.”

16-2.30 Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- 16-2.30-A.** “And” indicates that all connected items or provisions apply; and
- 16-2.30-B.** “Or” indicates that the connected items or provisions may apply singularly or in combination.

16-2.40 Computation of Time

- 16-2.40-A.** References to “days” are to calendar days unless otherwise expressly stated. References to “business days” are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by the city.

² These general “rules of construction” are new. They match those included in the zoning ordinance draft.

16-2.40-B. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or holiday observed by the city, that day is excluded.

16-2.40-C. A day concludes at the close of business of city hall, and any materials received after that time will be considered to have been received the following day.

16-2.50 Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of these land development regulations. In case of any difference of meaning or implication between the text of these land development regulations and any heading, drawing, table, figure or illustration, the text governs.

16-2.60 References to Other Regulations

All references in these land development regulations to other city, state or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of state or federal regulations.

16-2.70 Current Versions and Citations

All references to other city, state or federal regulations in these land development regulations refer to the most current version and citation for those regulations, unless otherwise expressly indicated.

16-2.80 Lists and Examples

Lists of items or examples that use “including,” “such as” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

16-2.90 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that department head, officer or employee is authorized to delegate the assigned responsibility to other individuals over whom they have authority.

16-2.100 Public Officials and Agencies

All employees, public officials, bodies and agencies to which references are made are those of the City of Dunwoody unless otherwise expressly stated.

Article 3 Required Public Improvements

16-3.10 Purpose

The purpose of this article is to:

- 16-3.10-A.** Establish the city's authority to require an applicant for a building permit or development permit to make reasonable public street improvements and/or obtain approval to defer such improvements through an agreement process and/or pay a fee in lieu of such improvements;
- 16-3.10-B.** Establish procedures to determine when applicants for building permits or development permits are required to provide public improvements;
- 16-3.10-C.** Establish criteria to be used in determining the nature, extent and location of required public improvements; and
- 16-3.10-D.** Promote development of the city's transportation infrastructure in conformance with the city's comprehensive plan and transportation plan.

16-3.20 Applicability

Applicants for any building permit or development permit must construct or otherwise provide for public right-of-way improvements as set forth in Sec. 16-3.30 if issuance of the permit would result in any of the following:

- 16-3.20-A.** Creation of a new access point to a public street;
- 16-3.20-B.** Addition of 8 or more motor vehicle parking stalls on the subject lot;
- 16-3.20-C.** Structural improvements to existing buildings that exceed 25% of the county tax assessor's 100% assessed value of the existing improvements on the subject property, based on the value of all structural improvements over the previous 12-month period;
- 16-3.20-D.** New buildings or building additions that result in an increase in existing building floor area on the subject property by more than 10%, based on the total floor area added over the previous 12-month period; or
- 16-3.20-E.** A change in use or method of operation that results in a 20% or greater increase in traffic generation potential, based on average daily and peak-hour traffic generation data published by the Institute of Transportation Engineers (ITE).³

16-3.30 Requirements

The community development director is authorized to determine, in consultation with other affected city departments and service providers, whether one or more of the following public right-of-way improvements abutting the subject property are deficient and must be brought up to current standards to mitigate the impacts of a permitted action set forth in Sec. 16-3.20. Construction or provision of those

³ Added (E) since release of April 30, 2013 draft.

improvements in the manner specified by the community development director must be a condition of granting the applicable permit:

- 16-3.30-A. Dedication of public right-of-way on the same side of the street as the subject property;
- 16-3.30-B. Paved roadway , including bike lanes, on the same side of the street as the subject property;
- 16-3.30-C. Sidewalks on the same side of the street as the subject property;
- 16-3.30-D. Concrete curbs and gutters on the same side of the street as the subject property;
- 16-3.30-E. Storm drainage systems;
- 16-3.30-F. Street landscaping and streetscape appurtenances on the same side of the street as the subject property; and
- 16-3.30-G. Traffic control and other safety devices including, but not limited to, provisions for channelization, pavement markings, signage, pedestrian safety and traffic calming;

16-3.40 Construction

Unless a deferral and/or fee in lieu of improvements is granted in accordance with Sec. 16-3.50, applicants for a building permits or development permits must construct required improvements in conformance with all applicable city requirements.

16-3.50 Deferral and Fee in Lieu of Improvements

- 16-3.50-A. The community development director may grant a deferral and/or allow payment of a fee in lieu of improvements for some or all of the improvements required pursuant to this article, provided that dedication of necessary right-of-way may not be deferred or satisfied through payment of a fee in lieu. The community development director's decision regarding deferral or payment of a fee in lieu must take into account the best interest of the city and, among other considerations, the following criteria:
 - 1. Proximity to similar improvements or lack thereof, within the roadway corridor;
 - 2. Continuity of infrastructure improvements within the public right-of-way;
 - 3. Pending projects programmed within the corridor that may impact the street frontage of the subject property;
 - 4. Safety considerations;
 - 5. Traffic volumes and travel patterns;
 - 6. Storm drainage needs;
 - 7. Any input received from city departments and service providers.
- 16-3.50-B. For those improvements either deferred or for which a fee in lieu is paid, the city must require that the applicant do one or more of the following:

1. Execute and record an agreement to defer completion of the required improvements by the applicant until such time as the city determines the improvements are needed; or
2. Pay a fee in lieu of improvements based on the city's estimated costs to complete the required improvements.; or
3. Execute a combination of a deferral and payment of a fee in lieu of improvements, provided that the applicant's combined obligation does not exceed the extent of the total requirements for such improvements.

16-3.50-C. For those improvements that are deferred, the design and construction standards in effect at the time of improvements will apply.

16-3.60 Appeals

Decisions by the community development director made pursuant to this article may be appealed to the city council by filing a request with the community development director within 30 days of the community development director's decision. If no appeal is made within the 30-day period, the decision of the community development director is final. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.

Article 4 Definitions

16-4.10 Terms Defined

The words and terms expressly defined in this article have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

16-4.10-A. Terms Beginning with "A"

Accessory structure means a structure, the use of which is customarily incidental and subordinate to that of the principal building of the same lot, such as a detached garage, toolshed or gazebo.

Accessory use means a use customarily incidental and subordinate to the principal use of the principal building or to the principal use of the premises.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected to a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is considered new construction.

Aggrieved person means a person whose property is the subject of the action appealed from or a person who has a substantial interest in the action appealed from, who is in danger of suffering special damage or injury not common to all property owners similarly situated.

Agricultural operations means those practices involving the establishment, cultivation or harvesting of products of the field or orchard; the preparation and planting of pasture land and farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.

Alley means a minor way that is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Applicant means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

Area of shallow flooding means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See "special flood hazard area"

Arterial (street) means a street, road or highway shown as an arterial in the City of Dunwoody Comprehensive Transportation Plan or an adopted thoroughfare plan.

As-built drawings means amended site plans specifying the location, dimensions, elevations, capacities and operational capabilities of public improvements, including

water, sewer, road and drainage structures and stormwater management facilities as they have been constructed.

16-4.10-B. Terms Beginning with “B”

Bank (stream bank) means as measured horizontally from that point where vegetation has been wrested by normal stream flow or wave action.

Base flood means a flood that has a 1% chance of being equaled or exceeded in any given year (also called the 100-year flood). ~~Base flood is the term used throughout this article. It is equivalent to the intermediate regional floodplain (IRF), previously used in the county.~~

Base Flood Elevation means the highest water surface elevation anticipated at any given point during the base flood.

Basement means ~~a space having one-half or more of its floor-to-ceiling height below the average level of adjoining ground and with a floor-to-ceiling height of not less than 6½ feet. any area of a building having its floor below ground level on 3 or more sides.~~

Best management practices (BMPs) means a collection of structural practices and vegetative measures that, when properly designed, installed and maintained, will provide effective erosion, ~~and~~ sedimentation ~~and~~ pollution control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. §12-7-6(b).

Bicycle lane means that part of a street or highway adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the community development director may delineate the outline of the block.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting system.

Buffer area means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to the applicable provisions of this Code and all conditions of zoning, to separate different use districts or to separate uses on one property from uses on another property of the same use district or a different use district.

Buffer, stream, means the portion of a lot and/or area of land immediately adjacent to the banks of streams as regulated by the land development regulations of this Code.

Buffer zone, state, means the area of land immediately adjacent to the banks of state waters in its natural state of vegetation that facilitates the protection of water quality and aquatic habitat.

Buildable area means the area of a lot remaining after all applicable zoning and land development regulations have been met (i.e., that portion of a lot where a building may be located).

Builder means a person who constructs a structure or dwelling for residential occupancy by humans.

Building means ~~any structure built for support, shelter or enclosure for any occupancy or storage, any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.~~

Building, elevated. See “Elevated building.”

Building permit means required written permission issued by the community development director or a building inspector for the construction, repair, alteration or addition to a structure.

Building setback line means the minimum horizontal distance required between the public right-of-way or the utility easement abutting a private street and the principal building or structure on a lot or any projection thereof, except projections that are authorized exceptions to building set back line requirements in the city zoning ordinance and any zoning conditions approved by the city council pursuant thereto. The size of the utility easement for a private street is equal to the required size of the public right-of-way and may not be any smaller in width or length than what would be required for a public right-of-way.

16-4.10-C. Terms Beginning with “C”

Caliper means the diameter of a tree trunk, taken 6 inches above the ground for up to and including 4-inch caliper size, and 12 inches above the ground for larger sizes.

Certified arborist means an individual who has been certified as an arborist by the International Society of Arboriculture and maintains the certification in good standing.

Channel means a natural or artificial watercourse with a definite bed and banks that conduct continuously or periodically flowing water.

Channel protection means the protection of stream channels, in accord with the *Georgia Stormwater Management Manual*, from bank and bed erosion and degradation by preserving or restoring the applicable stream buffer, by providing extended detention and by integrating erosion prevention measures such as energy dissipation and velocity control.

City arborist means the community development director or the community development director’s designee having primary administration and enforcement responsibilities for landscaping and tree regulations.

City manager means the city manager of the City of Dunwoody.

City of Dunwoody Stormwater Management Manual means the *Georgia Stormwater Management Manual*.

Collector street means a street or road designated as a collector street in the City of Dunwoody ~~Thoroughfare~~ Comprehensive Transportation Plan ~~or an adopted thoroughfare plan.~~

Comprehensive plan means the comprehensive plan adopted by the city council, as it may be amended from time to time, that divides the city into land use categories and that constitutes the official policy of the city regarding long-term planning and use of land.

Conservation easement means a restriction or limitation on the use of real property that is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use and includes conservation easements authorized by state law.

Construction means any alteration of land for the purpose of achieving its development or changed use, including particularly any preparation for, building of or erection of a structure.

Construction waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to, asbestos-containing waste, wood, tree stumps, tree tops, bricks, metal, concrete, wall board, paper, cardboard, glass, wire, plastics and other typical construction waste products and refuse.

Critical root zone means a circular region measured outward from a tree trunk representing the essential area of roots that must be maintained or protected for the tree's survival. The critical root zone encompasses one foot of radial distance for every one inch of the tree's DBH, with a minimum ~~diameter-radius~~ of 8 feet.

Crosswalk means a right-of-way within a block dedicated to public use, 10 feet or more in width, intended exclusively for pedestrians and nonmotorized transportation and that is designed to improve or provide access to adjacent roads or lots.

Crown reduction pruning means a method of pruning to reduce the height or spread of a tree by performing appropriate pruning cuts.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation or the depth below original ground surface to excavated surface. Also known as "excavation."

16-4.10-D. Terms Beginning with "D"

DBH (diameter at breast height) means the diameter of a tree trunk measured in inches at a height of 4½ feet above the ground. If a tree splits into multiple trunks below 4½ feet, then the trunk is measured at its most narrow point beneath the split.

Density factor means a unit of measurement used to calculate the required tree coverage on a site.

Detached means being separated from a principal structure by a minimum of 3 feet.

Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge of the stormwater, as that term is defined by state law, the City of Dunwoody *Stormwater Management Manual* or this chapter.

Detention facility means a facility that provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

Developer means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

Development means all activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of land, dairying or animal husbandry. Such activities include, but are not limited to, land disturbance (clearing and grubbing the land of vegetation and stumps and grading) and the construction of improvements such as, but not limited to, streets, driveways or parking area, water sewer mains, stormwater drainage facilities, sidewalks or other structures permanently placed in or on the property. Where appropriate to the context, development also may be used to denote a specific subdivision or project that is a single entity or intended to be constructed as interrelated whole, whether simultaneously or in phases. [For the purposes of interpreting and administering the flood damage prevention regulations of Article 12, “development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving or any other installation of impervious cover, excavating or drilling operations or storage of equipment or materials.](#)

Development permit means a permit issued by the City of Dunwoody that authorizes the commencement of development on a specific parcel of land.

DNR means the Georgia Department of Natural Resources.

Drainage means the removal of surface or subsurface water from a given area, either by gravity or by pumping, commonly applied herein to surface water.

Drainage easement means an easement appurtenant or attached to a tract or parcel of land allowing the owners of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

Drainage plan means a plan prepared using appropriate and commonly accepted engineering standards that specifies the means for alteration or development of a drainage system.

Drainage structure means a device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control or flood control purposes.

Drainage system means the surface and subsurface system for the removal of water from the land, including, but not limited to, both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature and the manmade element that includes culverts, ditches, channels and detention facilities that comprise the storm drainage system.

16-4.10-E. Terms Beginning with “E”

Elevated building means a non-basement building built to have the lowest floor ~~elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), and/or shear walls.~~ of the lowest enclosed area elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers or shear walls that are adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.

EPD means the Environmental Protection Division of the Georgia Department of Natural Resources.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, ~~and~~ sedimentation and pollution control plan means a plan for the control of soil erosion, ~~and~~ sedimentation and pollution resulting from a land-disturbing activity and that conforms to the requirements of the *Manual for Soil Erosion and Sedimentation Control in Georgia*.

Existing Construction means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by a community as a basis for that community's participation in the National Flood Insurance Program.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by a community as a basis for that community's participation in the National Flood Insurance Program.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Extended detention means the detention of stormwater runoff for an extended period, typically 24 hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years.

16-4.10-F. Terms Beginning with “F”

Fill means a portion of land surface to which properly compacted soils have been added or the depth above the original ground.

Final stabilization means all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation must consist of planted trees, shrubs or grasses. Final stabilization applies to each phase of construction.

Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from

1. the overflow of inland waters; or
2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the special flood hazard areas as Zone A. ~~an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.~~

~~*Flood hazard map* means the official city map designating the elevation and boundaries of flooding and associated floodways under base flood conditions maintained by the city, based upon the county flood insurance study dated January 5, 1983, or any revision thereto, the United States Corps of Engineers or other reputable reports accepted by the community development director, and based upon competent engineering studies prepared by a currently state registered professional engineer or the city.~~

Flood insurance rate map (FIRM) means an official map ~~of a community,~~ on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodplain means any land area susceptible to flooding.

Floodplain coordinator means the individual appointed to administer and enforce the flood protection regulations of Article 12.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. ~~(Refer to FEMA technical Bulletins TB 1-93, TB 3-93, and TB 7-93.)~~

Floodway means the channel of a river or other watercourse and the adjacent ~~land~~ areas ~~of the floodplain that is necessary to contain that must be reserved in order to~~ and discharge the base flood flow without cumulatively increasing the ~~water surface elevation~~ base flood elevation more than one foot; sometimes referred to as the “regulatory floodway.”

Floor means the top surface of an enclosed area in a building, including basement (i.e., the top of slab in concrete slab construction or top of wood flooring in wood frame construction). The term does not include the floor of a garage used solely for parking vehicles.

Frontage, lot means the distance for which the front boundary line of the lot and the street line are coincident.

Functionally dependent use means a use that cannot perform its intended purposes unless it is located or carried out in close proximity to water.

Future-conditions flood means the flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the 100-year future-conditions flood.

Future-conditions flood elevation means the flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.

Future-conditions floodplain means any land area susceptible to flooding by the future-conditions flood.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community’s zoning map, comprehensive land-use plans and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill and excavation.

16-4.10-G. Terms Beginning with “G”

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and includes the land in its cut or filled condition.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

16-4.10-H. Terms Beginning with “H”

Hardwood tree means a tree that does not bear either needles or cones. The term hardwood is based on the colloquialism and does not reflect any true qualities of the tree.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed ~~walls~~ foundation of a building.

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
or
—Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

16-4.10-I. Terms Beginning with “I”

Impervious surface or impervious cover means any surface that is highly resistant to infiltration by water, including, but not limited to, surfaces such as concrete or asphalt as well as most conventionally surfaced streets, roofs, sidewalks, driveways, parking lots and other similar structures.

Infiltration means the process of percolating stormwater runoff into the soil.

Inspection and maintenance agreement means a written agreement executed by an owner in a form approved by the community development director that will provide the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project that, when properly recorded in the deed records, constitutes a restriction on the title to a site or other land involved in a land development project.

Intermediate regional flood (IRF) ~~means a 100-year frequency flood as defined on the flood hazard map that has a probability of occurring once every 100 years or having~~

~~a 1% chance of being equaled or exceeded in any given year. Also known as the base flood, or 100-year flood.~~

~~Intermediate regional floodplain means the land area within the floodplain within a community subject to a 1% or greater chance of flooding in any given year as defined on the flood hazard map. Also known as area of special flood hazard, or 100-year floodplain.~~

16-4.10-J. Terms Beginning with “J”

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

16-4.10-K. Terms Beginning with “K”

RESERVED

16-4.10-L. Terms Beginning with “L”

Land-disturbing activity means any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, but not including agricultural practices as described in Sec. ~~16-7.30-E~~.

Landscape plan means a plan that identifies areas of tree preservation and methods of tree protection within the protected zone, as well as all areas or replanting. Within replanting areas, the common and botanical names of the proposed species, the number of plants of each species, the size of all plants, the proposed location of all plants and any unique features of the plants.

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this definition, the term "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request or computer design; or physical demarcation such as boundary signs, lot stakes or surveyor markings indicating that construction activities may occur on a specific plot.

Live detention means that quantity of water capable of being effectively contained by a designated facility for stormwater storage for a specified period of time.

Local issuing authority means the governing authority of the city that is certified pursuant to O.C.G.A. §12-7-8(a).

Local street means a street used primarily for access to abutting properties in residential, industrial or other developments.

Lot means a designated parcel, tract or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

Lot, corner, means a lot abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

Lot, double-frontage, means a lot that abuts 2 parallel streets or that abuts 2 streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. The following provisions apply to the term “lowest floor”

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of these land development regulations, ~~to applicable non-elevation design requirements, including, but not limited to:~~
 - a. ~~The wet floodproofing standard in Sec. 16-11.40 E.3.~~
 - b. ~~The anchoring standards in Sec. 16-11.40 E.1.~~
 - c. ~~The construction materials and method standards in Sec. 16-11.40 E.2.~~
 - d. ~~The standards for utilities in Sec. 16-11.40 F.~~

~~For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements. This prohibition includes below grade garages and storage areas.~~

16-4.10-M. Terms Beginning with “M”

Maintenance of detention facility means preserving the enclosed walls or impounding embankments of the detention facility in good condition; ensuring structural soundness, functional adequacy and freedom from excessive sediment; removing obstructions affecting operation of outlet device; and rectifying any unforeseen erosion problems.

Manufactured home means a structure, transportable in one or more sections, built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. ~~The term "manufactured home" does not include a "recreational vehicle."~~ The term includes any structure commonly referred to as a “mobile home” regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

Market value means (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures that have incurred "substantial damage" regardless of the actual amount of repair work performed.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. It is used as a reference for establishing various elevations within the floodplain. For purposes of these regulations, the term is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.

~~*Minor thoroughfare/minor arterial* means a street, road or highway shown as a minor thoroughfare arterial in the City of Dunwoody Comprehensive Transportation and Thoroughfare Plan or, if one has not yet been adopted by the city, the most current DeKalb County Transportation and Thoroughfare Plan.~~

Multiphase residential development means any development undertaken by a single developer or a group of developers acting in concert to develop lots for sale in a residential subdivision where such land is developed pursuant to multiple preliminary or final plats and such land is contiguous or is known, designated or advertised as a common unit or by a common name.

Multi-use trail means a recreation corridor intended for the use of nonmotorized forms of transportation such as, but not limited to, walking, wheelchairs, running, bicycles and inline skates, as identified in a master plan for multi-use trails in the city approved by the city council or, if one has not been approved by the city, the current county master plan for multi-use trails. the Parks, Recreation and Greenspace Master Plan, the Comprehensive Transportation Plan or other plan adopted by the city council.

16-4.10-N. Terms Beginning with “N”

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

Natural ground surface means the ground surface in its original state before any grading excavation or filling.

Nephelometric turbidity units (NTUs) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

New construction means any structure for which the permitted date of construction commenced after adoption of this chapter. For the purposes of interpreting and administering the flood damage prevention regulations of Article 12, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by this community as a basis for community participation in the NFIP.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff and leaching. Nonpoint source pollution is a byproduct of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonstructural stormwater management practice or *nonstructural practice* means any natural or planted vegetation or other nonstructural component and practice of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, vegetated channels and natural depressions.

North American Vertical Datum (NAVD), as corrected in 1988, means a vertical datum used as a reference for establishing varying elevations within the floodplain ~~on flood maps created pursuant to the Georgia Flood Map Modernization Program.~~

16-4.10-O. Terms Beginning with “O”

Off-site facility means a stormwater management facility located outside the boundaries of the site.

100-year floodplain means land in the floodplain subject to a 1% or greater statistical occurrence probability of flooding in any given year.

On-site facility means a stormwater management facility located within the boundaries of the site.

Open space means that portion of a lot, including yards, established pursuant to the requirements of this chapter as open space that is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, that is accessible to all persons occupying a building on the lot and is not a part of the roof of any portion of any building.

Operator means the party that has:

1. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
2. Day-to-day operational control of those activities that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or to comply with other permit conditions.

Ornamental trees means small growing trees, attaining a mature height of less than 40 feet, grown primarily for aesthetic purposes, i.e., flowers, fruit, etc.

Overbank flood protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e., flow events that exceed the capacity of the channel and enter the floodplain) and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.

Overstory tree means those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than 40 feet.

Owner means the person in whom is vested the fee ownership, dominion or title of property or the proprietor. This term may also include a tenant, if chargeable under the lease for maintenance of the property and any agent of the owner or tenant, including a developer.

16-4.10-P. Terms Beginning with “P”

Permit means the authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body or any other legal entity.

Planning commission means the planning commission of the city.

Post-development refers to the time period or the conditions that may reasonably be expected or anticipated to exist, after completion of land development activity on a site as the context may require.

Potential purchaser means a person purchasing property in a residential subdivision or a multiphase residential development from a developer and/or builder for occupancy as a residence or as a residence to be rented or leased to others.

Pre-development refers to ~~the wooded~~ conditions of a site before any development activity occurred or before a development permit was issued.

Major thoroughfare/major Principal arterial ~~means a street, road or highway shown as a major thoroughfare principal arterial in the City of Dunwoody Comprehensive Transportation and Thoroughfare Plan or, if one has not been adopted, the most current DeKalb County Transportation and Thoroughfare Plan.~~

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Protected zone means all areas of a parcel required to remain in open space, including all areas required as yard or setback areas, buffer areas, stream buffers, state buffer zones or landscaped areas in accordance with provisions of the city zoning ordinance or by conditions of zoning or variance approval.

~~Protected zone means all lands that fall outside of the buildable area of a parcel, all areas of the parcel required to remain in open space, and all areas required as landscape area according provisions of the City of Dunwoody zoning regulations, or conditions of the zoning approval.~~

Public facilities means the roads, water, sewer, schools, traffic control devices and electrical service.

16-4.10-Q. Terms Beginning with “Q”
RESERVED

16-4.10-R. Terms Beginning with “R”

Reach means a longitudinal segment of a stream or river measured along specified points on the stream or river.

Reasonable access means a 15-foot wide access easement from the public right-of-way to the stormwater management facility and a drainage and maintenance easement encompassing the stormwater management facility and extending 10 feet outside the pond's 100-year water ponding elevation.

Recreation areas mean those portions of open space designed and intended for active recreational use, such as sports fields and other play areas.

Recreational vehicle means a vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Redevelopment means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

Regional stormwater management facility or regional facility means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility and the requirement for on-site controls is either eliminated or reduced.

Residential has the same meaning as given in the city zoning ordinance except that it does not include apartments.

Revegetation means replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the zoning ordinance, conditions of zoning approval or applicable tree preservation or protection regulations.

Roadway drainage structure means a device such as a bridge, culvert or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas and carrying water to a release point on the other side.

Rock outcropping means a single, contiguous piece of exposed rock that has a horizontal surface area equal to or greater than 200 square feet.

Runoff means the portion of precipitation on the land that reaches the drainage system.

Runoff coefficient means the ratio of runoff to rainfall.

16-4.10-S. Terms Beginning with “S”

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

Sediment basin means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process that may be constructed as part of or separately from a detention facility.

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

~~Sedimentation facility means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process that may be constructed as part of or separately from a detention facility.~~

Seller means a builder or developer.

Significant tree means any existing, healthy, living tree 8 inches DBH or greater in size.

Site plan means that plan required to acquire a development, construction or building permit that shows the means by which the applicant will comply with applicable provisions of this chapter and other applicable ordinances.

Softwood tree means any coniferous (cone-bearing) tree.

~~Soil and water conservation approved plan means an erosion and sedimentation control plan approved in writing by the county soil and water conservation district.~~

Special Flood Hazard Area (SFHA) means an area in the floodplain subject to a 1% or greater chance of flooding in any given year. ~~This includes areas it is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AE, AO, or AH or AR; all floodplain and flood prone areas at or below the future-conditions flood elevation; and all other flood prone areas as referenced in Sec. 16-12.10-G. All streams with a drainage area of 100 acres or greater must have the special flood hazard area delineated.~~

Special tree means any tree that qualifies for special consideration for preservation due to its size, type, and condition ~~as defined in this article. (See 16-10.50).~~

Specimen tree means any tree that has been determined by the city arborist to be of high value because of its type, size, age, and/or of historical significance, or other professional criteria, and has been so designated in administrative standards established by the city. This is usually a plant with desirable form, foliage, fruit or flower that can be emphasized although isolated (See [16-10.50](#)).

Stabilization means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent [structures-cover](#) for the purpose of reducing to a minimum the erosion process and the resulting transport of sediment by wind, water, ice or gravity.

Standards and specifications means [construction and technical requirements that govern construction and installation of streets and other public improvements in the City of Dunwoody.](#)

Start of construction means the initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities. The term "construction activities" means the disturbance of soils associated with clearing, grading, excavating, filling of land or other similar activities that may result in soil erosion. [For the purposes of interpreting and administering the flood damage prevention regulations of Article 12,](#) "start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab for footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation [on the property of accessory buildings of accessory buildings or structures appurtenant to the principal structure](#), such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State general permit means the national pollution discharge elimination system general permit for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the federal *Water Pollution Control Act*, as amended, 33 USC 1251 et seq. and O.C.G.A. §12-5-30(f).

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state that are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Stormwater better site design means a nonstructural site design approach and technique that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. The term "stormwater better site design" includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater hotspot means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples of stormwater hotspots include, but are not limited to, gas/fueling stations, vehicle maintenance areas, vehicle washing/steam cleaning facilities, auto recycling facilities, outdoor material storage areas, loading and transfer areas, landfills, construction sites, industrial sites and industrial rooftops.

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation and to enhance and promote the public health, safety and general welfare.

Stormwater management facilities means those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system.

Stormwater management manual means the *Georgia Stormwater Management Manual*.

Stormwater management measure means any stormwater management facility or nonstructural stormwater practice.

Stormwater management plan means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.

Stormwater management system means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

Stormwater retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stream means natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, ~~and includes at least all streams depicted on the 1995 DeKalb County Geographic Information System (GIS) map maintained by the county GIS director.~~ Field verification must be performed to make a final determination as to the existence of a stream where a dispute exists. Such field verification must be performed ~~by~~ under the direction of the community development director.

Streambank means a sloping land that contains a stream channel in the normal flows of the stream.

Stream channel means the portion of a watercourse that contains the base flow of the stream.

Stream, ephemeral (stormwater) means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is defined always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

Stream, intermittent means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the seasonally high water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

Stream, perennial means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological and physical characteristics commonly associated with the continuous conveyance of water.

Street, private, means an access way similar to and having the same function as a public street, providing access to more than one property but held in private ownership. Private streets, when authorized, must be developed in accordance with the specifications for public streets established in this chapter.

Street, public, means any right-of-way set aside for public travel dedicated to the city and any right-of-way that has been accepted for maintenance as a street by the city.

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

Structural erosion, sedimentation and pollution control measures means measures for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading. Such measures can be found in the *Manual for Erosion and Sediment Control in Georgia*.

Structural stormwater control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

Structure means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on or in the ground. This does not include telephone poles and utility boxes, but does include gas or liquid storage tanks and manufactured homes.

Subdivision means any division or redivision of a lot, tract or parcel, regardless of its existing and future use, into 2 or more lots, tracts or parcels. Where appropriate to context, subdivision may also be used to reference the aggregate of all lots held in common ownership at the time of division.

Substantial building permit means a nonresidential building permit issued by the city with a total value in excess of 50% of the county tax assessor's 100% assessed value of the existing improvements only. The aggregate value of all building permits issued to the property over the previous 12 months must be included in this calculation (see Appendix E).

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration or improvements to a building~~rehabilitation, addition, or other proposed new development of a structure~~, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. For the purposes of this definition, "substantial improvement" is deemed to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by code enforcement officials, and not solely triggered by an improvement or repair project. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- ~~1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or~~
- ~~2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.~~

Substantially improved existing manufactured home parks or subdivision is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

16-4.10-T. Terms Beginning with “T”

~~Thoroughfare plan means a comprehensive street plan adopted by the city of the city indicating proposed location and right-of-way widths for major thoroughfares, minor thoroughfares, collector streets and other streets.~~

Tree means any living, self-supporting, woody perennial plant that has a trunk caliper of 2 inches or more measured at a point 6 inches above the ground and that normally attains a height of at least 10 feet at maturity, usually with one main stem or trunk and many branches.

Tree harvesting means the felling, loading, and transporting of timber products done pursuant to a special exception issued by the zoning board of appeals.

Tree replacement means the replacement of trees and landscape plant materials in the minimum required landscape areas, as determined by the zoning regulations or the tree protection ordinance.

Tree save area means the boundaries of the area surrounding trees wherein it is essential that they remain undisturbed in order to prevent damage and loss of trees that are to be retained on-site during the development and building process.

Tree topping means the removal of tree limbs, branches, or stems by cutting at the internodes and resulting in the failure of the tree to assume apical dominance.

16-4.10-U. Terms Beginning with “U”

Understory tree means those trees that grow beneath the overstory trees and will generally reach a mature height of less than 40 feet.

Used for includes the terms "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

16-4.10-V. Terms Beginning with “V”

Vegetation means all plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.

Vegetative erosion, sedimentation and pollution control practices means practices for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover;
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such practices can be found in the *Manual for Erosion and Sediment Control in Georgia* published by the state soil and water conservation commission.

16-4.10-W. Terms Beginning with “W”

Water quality protection means the requirement that all developments must improve the quality of storm runoff from the development site.

Watercourse means any natural or artificial waterway, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which

water flows either continuously or intermittently and that has a definite channel, bed and banks and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

16-4.10-X. Terms Beginning with “X”

RESERVED

16-4.10-Y. Terms Beginning with “Y”

RESERVED

16-4.10-Z. Terms Beginning with “Z”

RESERVED

PART II: ENVIRONMENT AND NATURAL RESOURCES

Article 5	General Provisions	5-1
16-5.10	Intent.....	5-1
16-5.20	Purpose	5-1
16-5.30	Applicability.....	5-2
16-5.40	Development Permits.....	5-2
16-5.50	Site Plans	5-3
16-5.60	Administration	5-5
16-5.70	Variances.....	5-5
16-5.80	Appeals of Administrative Decisions	5-7
16-5.90	Appeals of Zoning Board of Appeals' Decisions.....	5-8
16-5.100	Enforcement.....	5-9
16-5.110	Emergency Maintenance.....	5-11
Article 6	Grading.....	6-1
16-6.10	Purpose	6-1
16-6.20	Regulations.....	6-1
Article 7	Soil Erosion, Sedimentation and Pollution Control.....	7-1
16-7.10	Purpose	7-1
16-7.20	Compliance with State Law	7-1
16-7.30	Applicability and Exemptions	7-1
16-7.40	Regulations.....	7-3
16-7.50	Land Disturbance Permits	7-7
16-7.60	Appeals.....	7-12
16-7.70	Enforcement and Penalties	7-12
16-7.80	Liability	7-15
16-7.90	Education and Certification	7-15
Article 8	Stream Buffers	8-1
16-8.10	Applicability.....	8-1
16-8.20	Purpose	8-1
16-8.30	Minimum Stream Buffer Requirements	8-1
16-8.40	Exemptions and Special Administrative Permits	8-1
16-8.50	State-Mandated Stream Buffers	8-4
Article 9	Stormwater Management.....	9-1
16-9.10	General.....	9-1

16-9.20	Stormwater Management Plans.....	9-3
16-9.30	Design.....	9-9
16-9.40	Performance Criteria	9-12
16-9.50	Inspections and Maintenance	9-15
Article 10 Tree Preservation		10-1
16-10.10	General.....	10-1
16-10.20	Permit Procedure	10-2
16-10.30	Tree Removal	10-3
16-10.40	Tree Replacement and Revegetation	10-4
16-10.50	Specimen and Special Trees	10-6
16-10.60	Tree Protection Measures	10-7
16-10.70	Maintenance	10-9
16-10.80	Alternative Compliance	10-10
16-10.90	Enforcement and Penalties	10-10
16-10.100	Additional Information	10-10
Article 11 Groundwater Recharge Areas		11-1
16-11.10	Environmental Planning Criteria.....	11-1
Article 12 Flood Damage Prevention		12-1
16-12.10	General.....	12-1
16-12.20	Definitions	12-4
16-12.30	Administration	12-4
16-12.40	Standards for Development	12-9
16-12.50	Flood Hazard Reduction	12-12
16-12.60	Variances	12-17

Article 5 General Provisions⁴

16-5.10 Intent

- 16-5.10-A.** The environment and natural resource regulations of this Part II establish public policies for the protection of the natural environment and specify standards for land development to ensure achievement of these public policies.
- 16-5.10-B.** By declaration of public policies for protection of the environment and natural resources, the city council expresses its intent to protect the public interest by seeking to ensure, where appropriate, maintenance of natural resources and the environment and prevention of its degradation, and assuring high-quality land development. The city council further declares its intent that these policies constitute the public policy framework within which a comprehensive program for protection of the natural environment and implementation of a comprehensive drainage and stormwater management program will be accomplished.

16-5.20 Purpose

- 16-5.20-A.** The environment and natural resource regulations of this Part II are adopted for the purpose of:
1. Regulating the alteration of land and topography;
 2. Regulating the removal and requiring the replacement of certain vegetation;
 3. Requiring erosion control and sedimentation control;
 4. Protecting city streams and floodplains from substantial alteration of their natural functions and from sediment and debris accumulation;
 5. Specifying standards for stormwater management system design;
 6. Ensuring the continuous and efficient operation of the stormwater management system; and
 7. Protecting water quality within intermittent and perennial streams throughout the city.
- 16-5.20-B.** It is the city council's intent that land development be accomplished in conformity with the public policy statements. To that end, the plans required under applicable provisions of this chapter must be reviewed by the city to enable a full exchange of information between the city and the applicant as to the city's public policies for land development.

⁴ Except as otherwise expressly stated, the regulations of this article have been taken from Chapter 16, Article II, Division 1 (Generally). No substantive changes are included unless expressly noted within the text.

- 16-5.20-C.** The city council further declares its intent that these public policies be evaluated periodically so as to reflect the community's interests in protection of the natural environment and to give direction to city actions in matters affecting the natural environment and land development.

16-5.30 Applicability

The environment and natural resource regulations of this Part II apply to all development activity within the city.

16-5.40 Development Permits

16-5.40-A. Pre-application Meeting

Before filing a land development application on a project for review and approval, the applicant must meet with the department to discuss the procedure for approval of a land development permit and the requirements as to the general layout of streets, parking, open space/lot coverage, street improvements, stormwater management, sewage, fire protection and similar matters, as well as the availability of existing services, including schools. The department and the applicant must review the applicant's stormwater management plans, inspection and maintenance requirements and water quality control requirements. The department may advise the applicant, when appropriate, to discuss the proposed project with those officials who must eventually approve those aspects of the project coming within their jurisdiction. This meeting will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

16-5.40-B. Complete Applications

1. In order to be deemed valid and complete, an application for a land disturbance permit must include at least the following:
 - a. Three ~~paper~~ copies and one ~~CD or DVD containing~~ electronic/digital copy images of complete civil plans, which must include a site plan, a grading and stormwater management plan, a utility plan, a soil erosion, ~~and~~ sedimentation ~~and pollution~~ control plan, a landscape plan, and a tree survey;
 - b. One hydrology report and completed stormwater quality site development review tool documentation;
 - c. An application signed by the owner of the property or a completed indemnification agreement signed by the owner of the property; and
 - d. Payment of the appropriate development review application fee.
2. A valid and complete application for a sketch plat approval must include at least the following:
 - a. ~~Eighteen-Three~~ copies of the preliminary plat site plan (and one ~~CD or DVD~~ electronic/digital copy) that is in conformance with the zoning of the property in effect at the time of the application, and a tree survey;

- b. An application signed by the owner of the property or, if the application is not signed by the owner, a completed indemnification agreement signed by the owner of the property; and
- c. Payment of the appropriate development review application fee.

16-5.50 Site Plans⁵

- 16-5.50-A.** All site plans submitted in accordance with applicable provisions of this chapter must meet the requirements for their preparation and must also provide information to enable a determination to be made by the community development director as to plan conformance with the public policy statements of this chapter.
- 16-5.50-B.** All persons proposing developments, redevelopments or construction must submit site plans to the community development director illustrating the means by which conformance with policy provisions may be achieved and illustrating compliance with applicable development standards before issuance of a development or building permit.
- 16-5.50-C.** Electric, telephone and gas utilities must submit plans and obtain a development permit only for major transmission installations located within rights-of-way or easements devoted exclusively to installations of utility facilities. Individual single-family lots within approved subdivisions are exempt from these requirements for new residential construction with the exception that individual single-family lots where site plans for each are required by special designation on the recorded plat or where such lots are located within special flood hazard areas ~~the intermediate regional floodplain~~ must be submitted for review and approval in accordance with this article and other applicable provisions of this chapter. Owners and developers of individual single-family lots are required to use best management practices to prevent sedimentation from leaving the site.
- 16-5.50-D.** Grading, erosion control, sedimentation control, water quality control and storm-water management plans must be prepared by or under the supervision of a state-registered and authorized professional, ~~engineer, architect or landscape architect, or combination~~ as may be appropriate for project planning and design. Tree protection plans may be prepared by and implemented under the supervision of a currently state-registered professional architect, forester, landscape architect or engineer as may be appropriate for project planning and design. When the hydrologic engineering analysis includes applications of the principles for flood routing, super critical flow, high energy dissipation or conversion, backwater curves, floodplain studies or other advanced hydrologic engineering techniques, the analysis must be made by a currently state-registered professional with demonstrated proficiency in hydrology.

⁵ The regulations of this section have been taken from Chapter 16, Article II, Division 3 (Variances and Site Plans). No substantive changes are included unless expressly noted within the text.

16-5.50-E. Site plans and supporting documentation to show conformance with this chapter must be submitted in accordance with the applicable provisions of the city zoning ordinance and all conditions of zoning and must include the following:

1. Evidence of conformance with the requirements of this chapter for grading, vegetation alteration, erosion control, sedimentation control, water quality control and drainage system alteration or development. Grading plans must illustrate existing and proposed contours to the 2-foot interval at a minimum; ~~golf courses and other open space areas are exempt from this requirement but general grading plans for golf courses and other open space areas must be submitted.~~ Water quality plans must include the identification of existing wetland areas within the development site and must demonstrate use of the stormwater quality site development review tool. Related plans must show locations of structures, roads, surface drainage, existing and proposed drainage conduits, buffer areas, stream buffers, state buffer zones, and proposed alterations to the existing site.
2. A hydrologic engineering analysis of stormwater runoff under pre-developed and post-developed site conditions and a detailed evaluation of the projected effects on upstream and downstream properties within the affected drainage basin. In determining downstream effects from stormwater management structures, BMPs, and the development, hydrologic-hydraulic engineering studies must extend downstream to a point where the proposed development represents less than 10% of the total watershed. This analysis must include a determination of the culvert, floodplain and channel cross-section area required to carry the affected runoff ~~at the intermediate regional flood stage level.~~
3. Delineation of the boundaries of the ~~special flood hazard areas intermediate regional floodplain~~ for streams draining in excess of 100 acres. The actual building site in relation to the ~~special flood hazard areas intermediate regional floodplain~~ boundaries must be shown; the same information must be indicated by the seller to the purchaser of each property so affected. ~~The elevation contours representing the intermediate regional flood conditions must be shown when they are located outside established ditch banks. A benchmark suitable for determining intermediate regional flood elevations must be established.~~
4. The projected sequence of work represented by the grading, vegetation, erosion control, sedimentation control, water quality control and stormwater management plans as related to other major items of construction.
5. Upon development project completion, location, size and invert elevations of piped segments of the stormwater management system, of control weirs, BMPs and water surface elevations and volumes in detention ponds must be shown on the final plat for a subdivision, and on ~~as-built drawings a final plan~~ for other developments, which must be submitted to the community development director prior to approval. The ~~currently authorized,~~ state-registered professional ~~engineer, architect or landscape architect~~ reviewing the construction must provide a certificate that the development is in substantial compliance with approved plans. As-built elevation certifications prepared by currently state-registered

land surveyors or currently state-registered professional engineers for all developments, including fill, allowed within a flood-prone area, must be submitted to the community development director.

6. A separate tree protection plan in conformance with the requirements [§16-10.20-A](#).

16-5.60 Administration

16-5.60-A. The community development director is responsible for administering and enforcing the environment and natural resources regulations of [Article 6](#), [Article 7](#), [Article 8](#) and [Article 9](#), including the following specific duties and responsibilities:

1. Review all development permits to ensure that the permit requirements of this chapter have been satisfied;
2. Advise permittee when additional federal or state permits may be required and, if specific federal or state permits are known to be required, that copies of such permits are to be provided and maintained on file with the development permit; and
3. Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

16-5.60-B. The community development director is responsible for administering and enforcing those provisions [Article 6](#), [Article 7](#), [Article 8](#) and [Article 9](#) that apply to developed and occupied areas and to property in an undeveloped state affecting city responsibility for maintenance of the stormwater management system. The community development director must ensure that maintenance is provided within any altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

16-5.70 Variances⁶

16-5.70-A. Authorized Variances

Except as further limited herein, an applicant may request a variance from the grading regulations of [Article 6](#), the soil erosion, ~~and~~ sedimentation ~~and~~ [pollution](#) control regulations of [Article 7](#), the stream buffer regulations of [Article 8](#) and the stormwater management regulations of [Article 9](#). See Sec. [16-12.60](#) for information about variances to flood damage prevention regulations.

⁶ The regulations of this section have been taken from Chapter 16, Article II, Division 3 (Variances and Site Plans). No substantive changes are included unless expressly noted within the text.

16-5.70-B. Authority to Hear and Consider

The zoning board of appeals is authorized to hear variance requests. The zoning board of appeals may not consider or grant variances that are the responsibility of the director of the environmental protection division pursuant to O.C.G.A. §12-2-8 and other relevant state statutes and regulations.

16-5.70-C. Stream Buffer Variances

The zoning board of appeals is authorized to consider applications for variances to the stream buffer requirements of Sec. [16-8-30](#) but not within the 25-foot state buffer zone adjacent to waters of the state as set forth in Sec. [16-7-40-C.15](#). Where variances involving the same project are requested from both the state director of the environmental protection division and the community development director, the community development director may not take action on any such request for variance until ~~the director of the environmental protection division grants the variance or otherwise approves the request pending before the environmental protection division~~ [the state acts on the subject application](#). Receiving a variance from the director of the environmental protection division does not obligate the zoning board of appeals to permit the project to proceed if the project does not also meet all the other requirements of this chapter. No variance from the provisions of this chapter may be authorized except as expressly authorized in this section or another section of this chapter.

16-5.70-D. Applications

Applications for variances authorized in Sec. [16-5.70-A](#) must be made in writing to the community development director and must contain all of materials and documents necessary to demonstrate that the request meets the criteria for granting variances. The community development director must review the variance request and make a recommendation of approval or denial to the zoning board of appeals.

16-5.70-E. Decision-making Criteria

In considering a request for a variance authorized in Sec. [16-5.70-A](#), the zoning board of appeals must make all of the following findings:

1. The request, while not strictly meeting the requirements of this chapter, will be, in the judgment of the zoning board of appeals, at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the zoning board of appeals must examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 - a. Stream bank or soil stabilization;
 - b. Trapping of sediment in surface runoff;
 - c. Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 - d. Terrestrial habitat, food chain, and migration corridor;
 - e. Buffering of flood flows;

- f. Infiltration of surface runoff;
 - g. Noise and visual buffers;
 - h. Downstream water quality; and
 - i. Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
- 2. By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
- 3. The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
- 4. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
- 5. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an extreme hardship, provided the hardship was not created by the owner.

16-5.80 Appeals of Administrative Decisions

16-5.80-A. Applicability

The procedures of this article apply to appeals of administrative decisions authorized under these land development regulations.

16-5.80-B. Authority to File

A person aggrieved by any final order, requirement or decision of an administrative official may file an appeal of that administrative decision.

16-5.80-C. Application Filing

Unless otherwise expressly stated, appeals must be filed with the community development director within 15 days of the date of the order, requirement or decision being appealed. Failure to act is not an order, requirement or decision within the meaning of this section. The appeal must be scheduled to be heard at the next regularly scheduled zoning board of appeals meeting for which required hearing notice can be provided, unless the applicant agrees to a later hearing date.

16-5.80-D. Effect of Appeal

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the zoning board of appeals, after the appeal is filed, that, because of facts stated in the certification, a stay would cause imminent peril to life or property. In such a case,

proceedings may be stayed only by a restraining order granted by the superior court on notice to the official whose decision is being appealed and on due cause shown.

16-5.80-E. Record of Decision

Upon receipt of a complete application of appeal, the community development director or other administrative official whose decision is being appealed must transmit to the zoning board of appeals all papers constituting the record upon which the action appealed is taken.

16-5.80-F. Hearing Notice⁷

Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least 10 days before the date of the zoning board of appeals hearing.

16-5.80-G. Hearing and Decision

1. The zoning board of appeals must hold a hearing to consider all appeals of administrative decisions.
2. Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must make a decision. The decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing. Final action on an appeal requires a simple majority vote of the board of appeals members present and voting.
3. In exercising its powers, the zoning board of appeal may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. To that end, the board has all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.

16-5.80-H. Review and Approval Criteria

An appeal shall be sustained only upon a finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact or that the administrative official acted in an arbitrary manner.

16-5.8016-5.90 Appeals of Zoning Board of Appeals' Decisions

~~16-5.80-A.~~ **16-5.90-A.** Any person aggrieved by a final decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.

⁷ These provisions have been revised to eliminate the requirement for a "public" hearing and to require only mailed notice to the person filing the appeal. This would not necessarily prevent the city from providing additional notice or from accepting public testimony at the hearing.

~~16-5.80-B.~~16-5.90-B. When a petition for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

~~16-5.90~~16-5.100 **Enforcement**⁸

~~16-5.90-A.~~16-5.100-A. **Notice of Violation**

Whenever the community development director determines that development activity or inactivity on a property does not comply with the approved development and construction plans, that approved and required erosion, ~~and~~ sedimentation and pollution control facilities or devices have been altered, damaged or destroyed, or that any other activities violate the provisions of this chapter, the community development director must issue a notice of violation. Whenever the community development director determines that the drainage system has been unlawfully altered, causing inadequate drainage, the community development director must issue a notice of violation. The provisions of this section apply in addition to any other penalty provisions applicable to this chapter. The notice of violation of the provisions of this chapter or of any rule or regulation adopted pursuant hereto must be addressed to the owner of the property or the owner's agent and to the person found to be violating the provisions of this chapter and must:

1. Be in writing;
2. Include a description of the property sufficient for identification of where the violation has occurred;
3. List the specific provisions of this chapter that have been violated;
4. State that, if these repairs, construction or alterations are not completed within a reasonable time period specified by the inspector, summons must be issued for the person to appear in municipal court. However, in the judgment of the community development director, where the violation is willful, in wanton disregard of the provisions of this chapter or constitutes a public health and safety hazard or endangers the ecosystem, the community development director may issue a court summons in lieu of a notice of violation.

~~16-5.90-B.~~16-5.100-B. **Penalty**

It is unlawful for any person to do anything prohibited or fail to do anything required by the provisions of this chapter, as they now exist or as they may hereafter be amended. Any person that does anything prohibited or fails to do anything required by the provisions of this chapter, as they now exist or as they may hereafter be amended, upon conviction of a violation in municipal court is subject to a fine and/or

⁸ The provisions of this section have been taken from Chapter 16, Article II, Division 3 (Variances and Site Plans). No substantive changes are included unless expressly noted within the text.

imprisonment in accordance with section 1-6 of the municipal code. Where any offense or violation continues from day to day, each day's continuance thereof is deemed a separate offense. The owner of any buildings or premises or parts thereof where anything in violation of this chapter exists, and any architect, builder, engineer, contractor, or any other agent of the owner, or any tenant, who commits, or assists in the commission of, any violation, is guilty of a separate offense.

~~16-5.90-C.~~ 16-5.100-C. **Inspections**⁹

1. Upon presentation of city identification to the applicant, contractor, owner, owner's agent, operator or occupants, city employees may enter during all reasonable hours any property under proposed or existing development or construction. These employees may make inspections of the facilities for the purpose of determining plan requirements or compliance with all ordinance provisions.
2. All new developments and redevelopments must execute an inspection and maintenance agreement unless an on-site stormwater management facility or practice is dedicated to and accepted by the city. The applicant must execute an easement and an inspection and maintenance agreement that will bind all subsequent owners of land served by an on-site stormwater management facility or practice.
3. City employees may inspect any drainage or stormwater management system within or outside of an existing easement. All stormwater management facilities located on private property, whether dedicated to the city or not, must be accessible at all times for city inspection. Where stormwater management facilities are accepted by the city for maintenance, public access easements must be provided. Reasonable access must be provided to all easements for inspection and maintenance functions.
4. The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant must authorize the community development director to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.
 - a. Inspection warrants may be issued by municipal court when all of the following conditions are met:
 - (1) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a

⁹ The provisions of this subsection have been taken from Chapter 16, Article II, Division 2 (Inspections and Emergency Operations). No substantive changes are included unless expressly noted within the text.

condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

- (2) The issuing judge determines that the issuance of the warrant is authorized by law.

b. The inspection warrant must meet all of the following requirements:

- (1) The warrant is attached to the affidavit required to be made in order to obtain the warrant;
- (2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection;
- (3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and
- (4) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

~~16-5.100~~ **16-5.110 Emergency Maintenance**¹⁰

~~16-5.100-A.~~ **16-5.110-A.** The ~~community development director-city~~ may conduct emergency maintenance operations on private land and on drainage and stormwater management systems where emergency conditions exist. Emergency maintenance may constitute the removal of trees and other debris, which in the judgment of the community development director or ~~direction of public works~~ director create a condition potentially injurious to life, property and the public road system.

~~16-5.100-B.~~ **16-5.110-B.** The provisions of Article 10 do not apply in the case of tree trimming, removal or cutting necessitated by emergencies such as floods, windstorms, ice storms or other disasters.

~~16-5.100-C.~~ **16-5.110-C.** Emergency maintenance conducted on any stormwater management system does not constitute a continuing maintenance obligation on the part of the city.

¹⁰ The provisions of this section have been taken from Chapter 16, Article II, Division 2 (Inspections and Emergency Operations). No substantive changes are included unless expressly noted within the text.

Article 6 Grading¹¹

16-6.10 Purpose

The grading regulations of this article are intended to help:

- 16-6.10-A.** encourage the design of ~~residential~~ grading plans to provide the natural appearance of land contours and to provide ease of use in public areas;
- 16-6.10-B.** minimize the adverse effects of land clearance and grading on existing vegetation;
- 16-6.10-C.** minimize the adverse effects of land clearance and grading on the drainage system by strict erosion control and sedimentation control measures; and
- 16-6.10-D.** minimize erosion and shear failure by encouraging limited cutting and filling.

16-6.20 Regulations

- 16-6.20-A.** All grading operations must be conducted in compliance with an approved site plan.
- 16-6.20-B.** Before beginning construction activity, the ~~intermediate regional~~ floodplain ~~elevation contours~~ must be identified throughout the entire development by staking or other identifying mechanisms no less than every 100 feet.
- 16-6.20-C.** Grading must be performed to avoid the restriction of drainage through drainage-ways and drainage easements. Grading must be performed to provide positive drainage to storm drainage inlets, swales, channels, ditches or gutters.
- 16-6.20-D.** Finish grade slopes on residential projects and lots may not be steeper than 3:1, unless absolutely impractical due to vegetation, topography, or soil conditions. Three-to-one finish grade slopes must transition to 2:1 slopes at all perpendicular stream crossings.
- 16-6.20-E.** Large-scale general grading must include installation of approved soil and erosion control measures and be limited to phases approved by the community development director and completed prior to commencing building construction.
- 16-6.20-F.** Grading and filling in floodplains is prohibited, except as expressly allowed by Article 12.
- 16-6.20-G.** The burying, piling, or concealing in any way of construction waste is prohibited, ~~except where permitted within an M-2 (industrial) district, as defined in the city zoning ordinance, and by a permit issued by the state department of natural resources, environmental protection division.~~¹² No certificate of occupancy may be issued until the applicant provides written certification to the community development director, accompanied by a landfill receipt, indicating that all construction waste has been removed from the property.

¹¹ The regulations of this article have been taken from Section 16-86 of the current code. No substantive changes are included unless expressly noted within the text.

¹² Deleted because the M-2 zoning district is not mapped in the city and has been eliminated from the ordinance.

- 16-6.20-H.** Fills must be placed in uniform layers not to exceed a compacted thickness of 6 inches per layer. In all areas where structures, parking lots and drives, streets, dams and utilities are to be placed fill must be compacted to a density of at least 95% of the maximum laboratory dry weight per cubic foot, as determined by ASTM D 698. All other fills must be compacted to a least 85%, except for the upper one foot of roadways, which must be compacted to 98%.

Article 7 Soil Erosion, Sedimentation and Pollution Control¹³

16-7.10 Purpose

The soil erosion, ~~and~~ sedimentation and pollution control regulations of this article are primarily intended to:

- 16-7.10-A.** Minimize the removal of vegetation;
- 16-7.10-B.** Minimize the exposure of bare earth to precipitation by encouraging the scheduling of land development in increments of workable size which can be completed within a single construction season or within a time period compatible with the type and size of the project;
- 16-7.10-C.** Provide for the reestablishment of vegetation within a reasonable period following completion of final grading and utility installation;
- 16-7.10-D.** Give priority to the ~~paving of~~ installation of streets, parking lots and other areas within a reasonable time following completion of final grading; and
- 16-7.10-E.** Encourage the use of erosion control and sedimentation techniques found in the *Manual for Erosion and Sedimentation Control in Georgia*, as published by the state soil and water conservation commission.

16-7.20 Compliance with State Law

Any land-disturbing activity permitted under this article must be carried out in accordance with the *Georgia Erosion and Sedimentation Act* of 1975, O.C.G.A., §12-7-1 et seq., all applicable city regulations and any conditions attached to the land disturbance permit issued under Sec. 16-7.50.

16-7.30 Applicability and Exemptions

The soil erosion, ~~and~~ sedimentation and pollution control regulations of this article apply to any land-disturbing activity undertaken by any person on any land except for the following:

- 16-7.30-A.** Surface mining, as defined in O.C.G.A. §12-4-72, ~~Mineral Resources and Caves Act~~ Georgia Surface Mining Act of 1968;
- 16-7.30-B.** Granite quarrying and land clearing for granite quarrying;
- 16-7.30-C.** Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in only minor soil erosion;
- 16-7.30-D.** The construction of a single-family residence when that construction disturbs less than one acre and is not a part of a larger common plan of development or sale with

¹³ The regulations of this article have been taken from Chapter 16, Article II, Division 4 (Soil Erosion and Sedimentation Control). Minor changes are proposed to reflect MNGWPD model ordinance. No substantive changes are included unless expressly noted within the text.

a planned disturbance of equal to or greater than one acre and not otherwise exempted under this section, provided however, that construction of a single-family residence must comply with the minimum requirements of Sec. [16-7.40](#).

- 16-7.30-E.** Agricultural operations, as defined in O.C.G.A. §1-3-3, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including, but not limited to, chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- 16-7.30-F.** Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in Sec. [16-7.40-C.15](#) and Sec. [16-7.40-C.16](#), no other land-disturbing activities except for normal forest management practices are allowed on the entire property upon which the forestry practices were conducted for a period of 3 years after completion of such forestry practices;
- 16-7.30-G.** Any project carried out under the technical supervision of the Natural Resources Conservation Service of the U.S. Department of Agriculture;
- 16-7.30-H.** Any project involving less than one acre of disturbed area, provided however, that this exemption does not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of one acre or more or within 200 feet of the bank of any state waters, excluding channels and drainageways that have water in them only during and immediately after rainfall events and intermittent streams that do not have water in them year-round, provided however, that any person responsible for a project that involves less than one acre that involves land-disturbing activity and that is within 200 feet of any such excluded channel or drainageway must prevent sediment from moving beyond the boundaries of the property on which the project is located and provided further, that these provisions do not preclude the city from regulating any project that is not expressly exempted by Sec. [16-7.30-A](#) through [16-7.30-G](#) or by Sec. [16-7.30-I](#) or Sec. [16-7.30-J](#);
- 16-7.30-I.** Construction or maintenance projects undertaken or financed in whole or in part by the state department of transportation, the state highway authority, or the state tollway authority; or any road construction or maintenance project undertaken by any county or municipality, provided however, that construction or maintenance projects of department of transportation or state tollway authority that disturb one or more contiguous acres of land are subject to the provisions of O.C.G.A. §12-7-7.1, except where the department of transportation, the state highway authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit must be submitted to the local issuing authority, and the local issuing authority must enforce compliance with the minimum requirements set forth in O.C.G.A. §12-7-6 as if a permit had been

issued, and violations are subject to the same penalties as violations by permit holders;

16-7.30-J. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. §36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. §36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority must enforce compliance with the minimum requirements set forth in O.C.G.A. §12-7-6 as if a permit had been issued, and violations are subject to the same penalties as violations by permit holders; and

16-7.30-K. Any public water system reservoir.

16-7.40 Regulations

16-7.40-A. Erosion, ~~and Sedimentation~~ and Pollution Control Measures and Practices

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities that are not expressly exempted by this article must contain provisions for soil erosion, ~~and sedimentation~~ and pollution control measures and practices. These provisions must be incorporated into the erosion, ~~and sedimentation~~ and pollution control plans. Erosion, ~~and sedimentation~~ and pollution control measures and practices must be applied to all features of the site, including street and utility installations, stormwater management facilities, drainage facilities and other temporary and permanent improvements. Measures must be installed to prevent or control erosion, ~~and sedimentation~~ and pollution during all stages of any land-disturbing activity. The community development director may require that land-disturbing activities be phased. Soil erosion, ~~and sedimentation~~ and pollution control plans must address appropriate measures to effectively control soil erosion during successive phases of construction.

16-7.40-B. Best Management Practices

1. The best management practices set forth of this section (Sec. 16-7.40-B) and the minimum protections established in Sec. 16-7.40-C are required for all land-disturbing activities. Proper design by phases, installation and maintenance of best management practices constitutes a complete defense to any action by the director of the environmental protection division or to any other allegation of non-compliance with Sec. 16-7.40-B.2 or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. §12-5-

30(f), the *Georgia Water Quality Control Act*. As used in this section, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. §12-7-6(b).

2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained constitutes a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the environmental protection division of the Georgia Department of Natural Resources pursuant to O.C.G.A. §12-5-30(f), the *Georgia Water Quality Control Act*, for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than 10 nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters must be measured in accordance with guidelines to be issued by the director of the environmental protection division. This section does not apply to any land disturbance associated with the construction of single-family homes that are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than 5 acres.
3. Failure to properly design, install, or maintain best management practices constitutes a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the [environmental protection](#) division pursuant to O.C.G.A. §12-5-30(f), the *Georgia Water Quality Control Act*, for each day on which such failure occurs.
4. The director of the environmental protection division may require, in accordance with regulations adopted by the Georgia Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

16-7.40-C. Protections

The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities require, at a minimum, protections at least as stringent as the state general permit; and best management practices, including conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the state soil and water conservation commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

1. Stripping of vegetation, grading and other development activities must be conducted in a manner so as to minimize erosion.
2. Cut-fill operations must be kept to a minimum.

3. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
4. Whenever feasible, natural vegetation must be retained, protected and supplemented as provided [Article 10](#).
5. The disturbed area and the duration of exposure to erosive elements must be kept to a practicable minimum.
6. Disturbed soil must be stabilized as quickly as practicable.
7. Temporary vegetation or mulching must be employed to protect exposed critical areas during development.
8. Permanent vegetation and structural erosion control practices must be installed as soon as practicable.
9. To the extent necessary, sediment in runoff must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this section, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. §12-7-1 et seq.
10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.
11. Cuts and fills may not endanger adjoining property.
12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
14. Land-disturbing activity plans for erosion, ~~and sedimentation~~ [and pollution](#) control must include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediment on-site or preclude sedimentation of adjacent waters beyond the levels specified in Sec. [16-7.40-B.2](#).
15. Except as provided in Sec. [16-7.40-C.16](#), there is established a 25-foot state buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director of the environmental protection division approves a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director of the environmental protection division pursuant to O.C.G.A. §12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this section, the term

"ephemeral stream" means a stream that, under normal circumstances, has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year-round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to O.C.G.A. §12-5-440 et seq., [of the Georgia Water Quality Control Act](#), must remain in force unless a variance is granted by the director of the environmental protection division, as provided in this section. The following requirements apply to any such buffer:

- a. No land-disturbing activities may be conducted within a buffer and a buffer must remain in its natural undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer does not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented at:
 - (1) Stream crossings for water lines; or
 - (2) Stream crossings for sewer lines;
16. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to O.C.G.A. §12-5-20 et seq., the *Georgia Water Quality Control Act*, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less must have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Georgia Board of Natural Resources, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director of the environmental protection division may

grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements apply to such buffer:

- a. No land-disturbing activities may be conducted within a buffer and a buffer must remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer does not apply to [stream crossings for water lines or stream crossings for sewer lines](#)~~the following land-disturbing activities~~, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented at stream crossings for [the](#) sewer or water lines.

16-7.40-D. Injury to Other Property

The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another does not constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.

16-7.50 Land Disturbance Permits

16-7.50-A. Required

No person may conduct any land-disturbing activity within the city without first obtaining a land disturbance permit from the community development director to perform such activity [and providing a copy of the notice of intent to the environmental protection division, if applicable.](#)

16-7.50-B. Review of Plans and Ordinances

The property owner, developer and designated planners and engineers must review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They must review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this chapter, and other ordinances which regulate the

development of land within the jurisdictional boundaries of the local issuing authority. However, the ~~operator~~ owner is the only party who may obtain a permit.

16-7.50-C. Applications

1. The application for a permit must be submitted to the community development director and must include the applicant's erosion, ~~and sedimentation~~ and pollution control plan with supporting data, as necessary. The plans must include, at a minimum, the data specified in Sec. 16-7.50-D. Soil erosion, ~~and sedimentation~~ and pollution control plans must conform to the provisions of Sec. 16-7.40-B and Sec. 16-7.40-C. Applications for a permit will not be accepted unless accompanied by 8 copies of the applicant's soil erosion, ~~and sedimentation~~ and pollution control plans. All applications must contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the Georgia Board of Natural Resources.
2. A permitting fee, as determined by the city council must be charged for each acre or fraction thereof in the project area.
3. In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. §12-5-23(a)(5), provided that such fees may not exceed \$80.00 per acre of land-disturbing activity, and these fees must be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees must be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. §12-7-8(a) half of such fees levied must be submitted to the EPD; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. §12-7-17(9) or (10) must be submitted in full to the EPD, regardless of the existence of a local issuing authority in the jurisdiction.
4. Immediately upon receipt of an application and plan for a permit, the local issuing authority must refer the application and plan to the soil and water conservation district for its review and approval concerning the adequacy of the erosion, ~~and sedimentation~~ and pollution control plan. The soil and water conservation district must approve or disapprove a plan within 35 days of receipt. Failure of the soil and water conservation district to act within 35 days will be construed as an approval of the pending plan. The results of the soil and water conservation district review must be forwarded to the local issuing authority. No permit may be issued unless the plan has been approved by the soil and water conservation district, all required fees have been paid and any variances required by Sec. 16-7.40-C.15 and Sec. 16-7.40-C.16 and any financial guarantees required in accordance with Sec. 16-7.50-C.6 have been obtained. Such a review will not be required if the local issuing authority and the soil and water conservation district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the soil and water conservation district. The local issuing authority must

approve or disapprove a revised plan submittal within 35 days of receipt of a complete application. Failure of the local issuing authority to take action within this required 35-day period means that the revised plan has been deemed approved by the issuing authority.

5. If a permit applicant has had 2 or more violations of previous permits, this chapter, or the *Erosion and Sedimentation Act*, as amended, within 3 years prior to the date of filing of the application under consideration, the community development director may deny the permit application.
6. The community development director may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the community development director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

16-7.50-D. Plans

1. Applications and plans must be prepared to meet the minimum requirements of Sec. 16-7.50-C and Sec. 16-7.50-D. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the state soil and water conservation commission as a guide; or through the use of more stringent alternate design criteria which conform to conservation and engineering practices including, but not limited to, design criteria published by the city or the city's approved stormwater management policy. The *Manual for Erosion and Sediment Control in Georgia* is incorporated by reference into this chapter as if fully set forth herein. The plan for the land-disturbing activity must consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.
2. Site plans must be submitted, which include all of the information required by the applicable, current erosion, sedimentation and pollution control plan review checklist established by the soil and water conservation commission. The site plan must also include the following minimum data ~~are required for each site plan~~:
 - a. Narrative or notes, and other information; notes or narrative are to be located on the site plan in general notes or in erosion and sediment control notes;
 - b. A description of existing land use at project site and description of proposed project;
 - c. Name, address, and phone number of the property owner;

- d. Name and phone number of 24-hour local contact who is responsible for erosion, ~~and~~ sedimentation and pollution controls;
 - e. Size of project, or phase under construction, in acres;
 - f. Activity schedule showing anticipated starting and completion dates for the project. The following statement must be on the site plan in bold letters: "The installation of erosion, ~~and~~ sedimentation and pollution control measures and practices must occur prior to or concurrent with land-disturbing activities";
 - g. Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas;
 - h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding;
 - i. Detailed drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*, but must be site specific;
 - j. Maintenance statement: "Erosion, ~~and~~ sedimentation and pollution control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures must be implemented to control or treat the sediment source."; and
 - k. Other information pertinent to requirements of this chapter as required by the community development director.
3. Maps, drawing, and supportive computations must bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion, ~~and~~ sedimentation and pollution control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity must meet the education and training certification requirements as developed by the soil and water conservation commission pursuant to O.C.G.A. §12-7-20. The certified plans must contain:¹⁴
- a. Graphic scale and north point or arrow indicating magnetic north;
 - b. Vicinity maps showing location of project and existing streets;
 - c. Boundary line survey;
 - d. Delineation of disturbed areas within project boundary;
 - e. Existing and planned contours, with an interval in accordance with the following:

¹⁴ This provision may require further review and revision.

Map Scale	Ground Slope (%)	Contour Interval (feet)
1 inch = 100 ft. or larger scale	Flat 0–2	0.5 or 1
	Rolling 2–8	1 or 2
	Step 8 +	2, 5, or 10

- f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan;
 - g. The names of property owners and current zoning of all abutting property;
 - h. Proposed structures or additions to existing structures and paved areas;
 - i. The delineated stream buffers as required by [Article 8](#), adjacent to state waters identified by the city;
 - j. The location of erosion, ~~and~~ sedimentation [and pollution](#) control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, “Chapter 6.”
4. Maintenance of all soil erosion, ~~and~~ sedimentation [and pollution](#) control practices, whether temporary or permanent, are at all times the responsibility of the property owner.

16-7.50-E. Permits

1. Permits must be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the community development director [and soil and water conservation district](#) of a completed application, provided variances and bonding are obtained, where necessary.
2. No permit may be issued by the community development director unless the erosion, ~~and~~ sedimentation [and pollution](#) control plan has been approved and the community development director has affirmatively determined that the plan is in compliance with this chapter, any variances required by Sec. [16-7.40-C.15](#) and Sec. [16-7.40-C.16](#) are obtained, any financial guarantees required in accordance with Sec. [16-7.50-C.6](#) are provided and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the city are met. If the permit is denied, the reason for denial must be furnished to the applicant.
3. [Any land disturbing activities by a local issuing authority are subject to the requirements of this article and to any other regulations relating to land development, as are applied to private persons and the soil and water conservation district will enforce such requirements upon the local issuing authority.](#)
4. If the tract is to be developed in phases, then a separate permit is required for each phase.
5. The permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion, ~~and~~ sedimentation [and pollution](#) control plan or that the holder or his successor in title is in

violation of this chapter. A holder of a permit must notify any successor in title of all conditions contained in the permit.

6. No permit may be issued until the applicant files documents with the community development director demonstrating compliance with all applicable local, state and federal requirements.

16-7.60 Appeals

The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion and sediment control plan or that the holder is in violation of permit conditions entitles the person submitting the plan or holding the permit to appeal the decision to the zoning board of appeals in accordance with Sec. [16-5.80](#).

16-7.70 Enforcement and Penalties

16-7.70-A. Enforcement

1. The community development department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion, ~~and~~ sedimentation and pollution.
2. The city must regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees are responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary and tertiary permittees are responsible for installation and maintenance of best management practices where the ~~the secondary~~ permittees is-are conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply must be served upon that person by the community development director. The notice must set forth the measures necessary to achieve compliance and must state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, ~~he-that person~~ will be deemed in violation of this article.
3. The community development director has the power to conduct any investigations necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
4. No person may refuse entry or access to any authorized representative or agent of the city, the soil and water conservation commission, or the soil and water conservation district who requests entry for the purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

5. The soil and water conservation district or the soil and water conservation commission or both may periodically review the actions of the city. The soil and water conservation district or the soil and water conservation commission or both may provide technical assistance to the city for the purpose of improving the effectiveness of the city's erosion, ~~and sedimentation~~ and pollution control program. The soil and water conservation district or the soil and water conservation commission must notify the EPD and request investigation by the EPD if the city's program is found to be deficient or ineffective.
6. The Georgia Board of Natural Resources may promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The EPD may periodically review the actions of the city which has been certified as a local issuing authority pursuant to O.C.G.A. §12-7-8(a). Such review may include review of the administration and enforcement of the city's ordinances. If such review indicates that the city has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. §12-7-7(e), the EPD must notify the city governing authority in writing. Upon receipt of the notification, the governing authority has 30 days to take the necessary corrective action to retain certification as a local issuing authority. If the city does not take necessary action within 30 days after notification by the EPD, the EPD may revoke the certification of the city as a local issuing authority.

16-7.70-B. Penalties

1. **Failure to Obtain a Permit for Land-Disturbing Activity**

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining the permit, the person is subject to revocation of their business license, work permit or other authorization for the conduct of a business and associated work activities within the city.

2. **Stop Work Orders**

Upon notice from the community development director or other city authorized representative, work on any project that is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, must be immediately stopped. Such notice must be in writing and must be given to the owner of the property, his authorized agent or the person in charge of the activity on the property, and must state the conditions under which work may be resumed. Where an emergency exists, no written notice is required.

- a. For the first and second violations of the provisions of this article on a site, the community development director must issue a written notice of violation. The violator has 5 days to correct the violation. If the violation is not corrected within 5 days, the EPD or the local issuing authority must issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided that if the

violation presents an imminent threat to public health or waters of the state or if land-disturbing activities are conducted without obtaining the necessary permit, the EPD or the local issuing authority must issue an immediate stop work order in lieu of a warning.

- b. For a third and each subsequent violation on a site, the EPD or the local issuing authority must issue an immediate stop work order. All stop work orders are effective immediately upon issuance and remain in effect until the necessary corrective action or mitigation has occurred.
- c. When a violation in the form of land disturbance without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the EPD director or his designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order must be issued by the local issuing authority or by the EPD director or his designee. All such stop work orders are effective immediately upon issuance and remain in effect until the necessary corrective action or mitigation has occurred. Stop work orders apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

3. **Bond Forfeiture**

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply must be served by the community development director upon that person. The notice must set forth the measures necessary to achieve compliance with the plan and must state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, they will be deemed in violation of this chapter and, in addition to other penalties, will be deemed to have forfeited his performance bond, if required to post one under the provisions of Sec. [16-7.50-C.6](#). The community development director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

4. **Monetary Penalties**

Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the community development director issued as provided in this article, is liable for a civil penalty not to exceed \$2,500.00 per day. Notwithstanding any limitation of law as to penalties which can be assessed for violations of city ordinances, the municipal court or any other court of competent jurisdiction trying cases brought under city ordinances approved under this article is authorized to impose penalties for such violations, not to exceed \$2,500.00 for each violation; ~~however the maximum assessment may not exceed the amount authorized by section 1-6 of the~~

~~municipal code~~. Each day during which violation or failure or refusal to comply continues constitutes a separate violation.

16-7.80 Liability

- 16-7.80-A.** The approval of a plan under the provisions of this article or the compliance with provisions of this article does not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the city, its officers or employees for damage to any person or property.
- 16-7.80-B.** The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another does not constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
- 16-7.80-C.** No provision of this ~~division article~~ permits any persons to violate the *Georgia Erosion and Sedimentation Act of 1975*, the *Georgia Water Quality Control Act* or the rules and regulations promulgated and approved under the *Act* or pollute any waters of the state.

16-7.90 Education and Certification

All persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity must meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the state soil and water conservation commission in consultation with the [environmental protection](#) division and the stakeholder advisory board created pursuant to O.C.G.A. §12-7-20.

Article 8 Stream Buffers¹⁵

16-8.10 Applicability

The stream buffer regulations of this article apply along all perennial and intermittent streams throughout the city except as expressly exempted or permitted in accordance with Sec. 16-8.40.

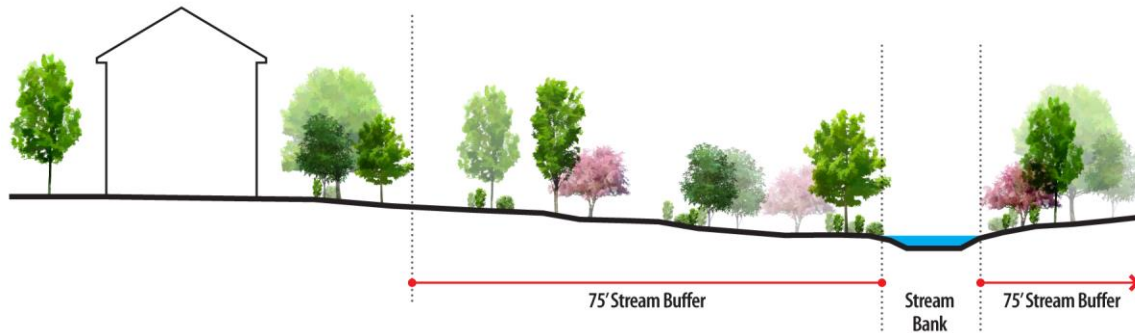
16-8.20 Purpose

The purpose of the city's stream buffer regulations is to preserve existing mature riparian vegetation that can provide shade, leaf litter, woody debris and erosion protection for streams.

16-8.30 Minimum Stream Buffer Requirements

- 16-8.30-A.** Stream buffers are established along all perennial and intermittent streams in the city. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed except as otherwise provided in Sec. 16-8.40.

Figure 8-1: Minimum Stream Buffer Requirement



- 16-8.30-B.** Any new stormwater discharge crossing a stream buffer or state buffer zone must be designed to ensure that sheet flow is established through the stream buffer and to prevent channelized flow through the stream buffer.
- 16-8.30-C.** Piping of streams is not allowed in required stream buffers unless a variance is granted in accordance with Sec. 16-5.70.

16-8.40 Exemptions and Special Administrative Permits

16-8.40-A. Exemptions

The stream buffer regulations of this article do not apply to any of the following activities, provided that any activity within a state-mandated stream buffer (See Sec. 16-7.40) must meet state requirements.

¹⁵ The provisions of this article are the city's current stream buffer regulations unless otherwise expressly noted. They have been taken from Article 2, Division 6, Sec. 254(4) through Sec. 254(7)

1. Work consisting of the usual and customary repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this section. Such usual and customary repair and maintenance activities cannot create any land disturbance, and must occur within the pre-existing disturbed area.
2. Construction Replacement of wooden decks, or porches or other additions to existing structures, attached to homes provided such replacements construction does not require land disturbance and does not further encroach on the stream buffer.
3. Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
4. Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption may not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses expressly identified in this paragraph.
5. Removal of unwanted ground cover (e.g., poison ivy) using hand tools as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.¹⁶
6. Land development activities within a dedicated transportation right-of-way existing at the time this section takes effect or approved under the terms of this section.
7. Within an easement of any utility existing at the time this section takes effect or approved under the terms of this section, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
8. Emergency work necessary to preserve life or property. However, when emergency work is performed, the person performing it must report such work to the community development department on the next business day after commencement of the work. Within 10 business days thereafter, the person must apply for a permit and perform such work within such time period as may be determined

¹⁶ This provision is existing. Although it represents a partial exemption to the no-disturbance rule, it was not previously listed in the "exemptions" section.

by the community development department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

9. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for 3 years after the end of the activities that intruded on the buffer.
10. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

16-8.40-B. Special Administrative Permits

The following activities may be approved within the stream buffers required by [Sec. 16-8.30](#) by special administrative permit:

1. Stream crossings by utility lines, roads, driveways or similar transportation routes, including trails for nonmotorized transportation;¹⁷
2. Public water supply intake or public wastewater outfall structures;
3. Land development necessary to provide access to a property;
4. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
5. Activities to restore and enhance stream bank stability, vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
6. Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high-flow velocities due to steep slopes;
7. The removal of dead, diseased, insect-infested, or hazardous trees (without any associated land disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist;
8. Minor land disturbance activities totaling no more than 200 square feet in area, and as required for the installation and removal of stormwater management structures related to projects occurring outside an adjacent stream buffer; and
9. Multi-use trails [and related improvements](#) that are part of a city council-approved [plan](#)~~Master Plan for Multi-Use Trails~~. [Unless otherwise approved by the state, such encroachments must be limited to specific locations not less than](#)

¹⁷ The utility line and road language is existing but was not previously listed as requiring special administrative permit approval. Also, the separate listing of “unpaved foot paths and trails” was removed, as redundant.

located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that there is no feasible alternative to the proposed encroachment and when they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council-approved plan are not counted as part of a site's impervious surface area for purposes of site development-related calculations and regulations.¹⁸

16-8.50 State-Mandated Stream Buffers

See Sec. 16-7.40.

¹⁸ This “multi-use” trail language is existing but it was not previously listed as requiring special administrative permit approval.

Article 9 Stormwater Management¹⁹

16-9.10 General

16-9.10-A. Purpose²⁰

The regulations of this article are adopted to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. These regulations seek to meet that purpose through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable;
6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and

¹⁹ This article has been modified to reflect the MNGWPD model ordinance.

²⁰ Based on the MNGWPD Model ordinance.

7. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

16-9.10-B. Stormwater Manual

All land development in the city must comply with the criteria, technical specifications, and standards of the *Georgia Stormwater Management Manual*, as may be hereafter amended. The rainfall intensities used in hydrologic and hydraulic computations must be those published in the *Georgia Stormwater Management Manual*.

16-9.10-C. Applicability

The stormwater management regulations of this article apply to all ~~A combination of storage and controlled release of stormwater runoff are required for all land~~ development ~~activities and construction for the entire site~~ that meets one or more of the following criteria:

~~Increases the peak rate of runoff from the site by more than one cubic foot per second for a 10-year frequency storm;~~

1. Involves the creation, addition or replacement of 5,000 square feet or more of impervious cover or that involves other land development activities of one acre or more;
2. Any new development or redevelopment, regardless of size, that meets the definition of a stormwater hotspot, as determined by the community development director; or
3. Land development activities that are smaller than the minimum applicability criteria of paragraphs 1 or 2, above, if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

16-9.10-D. Exemptions and Waivers

1. The following activities are exempt from the stormwater management requirements of this article:²¹
 - a. Individual single-family or duplex residential lots that are not part of a subdivision or phased development project ~~unless they meet one of the criteria listed in subsection (b) of this section~~;²²
 - b. Additions or modifications to existing single-family or duplex residential structures ~~unless it meets one of the criteria listed in subsection (b) of this section~~;²³

²¹ We believe this sentence reflects the intent of the ordinance, but the text of the existing ordinance is garbled (See 16-226(b)(5)).

²² This has been deleted because it does not appear to make sense and is not included in the MNGWPD Model Ordinance.

²³ This has been deleted because it does not appear to make sense and is not included in the MNGWPD Model Ordinance.

- c. Agricultural or silvicultural land management activities within areas zoned for these activities; and
- d. Repairs to any stormwater management facility or practice deemed necessary by the community development director.

~~The community development director may exempt the owner from those provisions of this section where (1) complete compliance with those specific provisions is physically impossible or (2) if the installation of a stormwater management facility would reduce downstream flood peaks by less than 1%.~~

~~The requirements, or portions thereof, of Sec. 16-9.20 and Sec. 16-9.30 may not be waived if the community development director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system.~~

~~A waiver of these minimum runoff quantity control requirements may be granted only after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request is required if there are subsequent additions, extensions, or modifications, to the development which would alter the approved stormwater runoff characteristics of a land disturbing activity receiving a waiver.~~

~~Appeals of waiver decisions may be taken to the zoning board of appeals pursuant to the provisions of Sec. 16-4.80.~~

- 2. If ~~40~~50% or less of a site is to be redeveloped, stormwater requirements must be met for the redeveloped area only and the non-disturbed area will be treated as pre-developed prior to the redevelopment. But if more than ~~40~~50% of the site is to be redeveloped, then the entire site must meet all stormwater requirements.

16-9.10-E. Information Required with Land Development Permit Applications

Except as otherwise expressly exempted, land development permit applications must be accompanied by the following information:

- 1. Stormwater management plan in accordance with Sec. 16-9.20;
- 2. Performance bond, if applicable; and,
- 3. Applicable permit application and plan review fees.

16-9.20 Stormwater Management Plans

16-9.20-A. General

Stormwater management plans must identify how post-development stormwater runoff will be controlled or managed and how the proposed project will meet all applicable requirements of this article. Plans must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia, who must

verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the stormwater design manual.

16-9.20-B. Information Required

The stormwater management plan must ensure compliance with the requirements and criteria in this article and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan must consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan must include all information required by the stormwater management site plan checklist of the stormwater design manual, including all of the following:

1. Common address and legal description of site;
2. Vicinity map;
3. Existing conditions hydrologic analysis (See Sec. 16-9.20-C)
4. Post-development hydrologic analysis (See Sec. 16-9.20-D)
5. Stormwater management system design (See Sec. 16-9.20-E)
6. Post-development downstream analysis (See Sec. 16-9.20-F)
7. Construction-phase erosion and sedimentation control plan (See Sec. 16-9.20-G)
8. Landscaping and open space plan (See Sec. 16-9.20-H)
9. Operations and maintenance plan (See Sec. 16-9.20-I)
10. Maintenance access easements (See Sec. 16-9.20-J)
11. Inspection and maintenance agreements (See Sec. 16-9.20-K).
12. Evidence of acquisition of applicable local and non-local permits (See Sec. 16-9.20-L)
13. Any proposed off-site facilities (See Sec. 16-9.20-M)

16-9.20-C. Existing Conditions Hydrologic Analysis

1. The existing conditions hydrologic analysis for stormwater runoff rates, volumes, and velocities must include all of the following:
 - a. A topographic map of existing site conditions with the drainage basin boundaries indicated;
 - b. Acreage, soil types and land cover of areas for each subbasin affected by the project;
 - c. All perennial and intermittent streams and other surface water features;
 - d. All existing stormwater conveyances and structural control facilities;
 - e. Direction of flow and exits from the site;

f. Analysis of runoff provided by off-site areas upstream of the project site; and

g. Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology.

2. For redevelopment sites, predevelopment conditions must be modeled using the established guidelines for the portion of the site undergoing land development activities.

16-9.20-D. Post-Development Hydrologic Analysis

The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities must include all of the following:

1. A topographic map of developed site conditions with the post-development drainage basin boundaries indicated;

2. Total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project;

3. Calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in Sec. 16-9.40;

4. Location and boundaries of proposed natural feature protection and conservation areas;

5. Documentation and calculations for any applicable site design credits that are being utilized;

6. Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology.

16-9.20-E. Stormwater Management System

The description, scaled drawings and design calculations for the proposed post-development stormwater management system must include all of the following:

1. A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes;

2. A narrative describing how the selected structural stormwater controls will be appropriate and effective;

3. Cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria;

4. A hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs);
5. Documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Sec. 16-9.40;
6. Drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and
7. Where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

16-9.20-F. Post-Development Downstream Analysis

A downstream peak flow analysis must include the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report must address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis must focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area must extend downstream from the project to a point in the drainage basin where the project area is 10% of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis must be in accordance with the *Georgia Stormwater Management Manual*. The capacity of the drainage systems must be analyzed to the 10% point.

16-9.20-G. Construction-Phase Erosion and Sedimentation Control Plan

An erosion and sedimentation control plan in accordance with the *Georgia Erosion and Sedimentation Control Act* or NPDES permit for construction activities. The plan must also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.

16-9.20-H. Landscaping and Open Space Plan

A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include:

1. The arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan;
2. Information necessary to construct the landscaping elements shown on the plan drawings;
3. Descriptions and standards for the methods, materials and vegetation that are to be used in the construction;

4. Density of plantings;
5. Descriptions of the stabilization and management techniques used to establish vegetation; and
6. A description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.

16-9.20-I. Operations and Maintenance Plan

This plan must include a detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. They must identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan must include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures must be included in the plan.

16-9.20-J. Maintenance Access Easements

- ~~3.1.~~ The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access must be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist must be recorded and must remain in effect even with the transfer of title of the property.
2. The access easement to the facility may not have a profile slope steeper than 33% and a cross slope of no more than 10%. The elevation of the maintenance easement around the facility must be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than 10% to the drainage facility. Fencing that complies with the requirement §16-9.30-G.2 must be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of §16-9.30-G.2 must be constructed on each maintenance easement.

16-9.20-K. Inspection and Maintenance Agreements

1. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the city, the applicant must execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that is binding on all subsequent owners of the site. The inspection and maintenance agreement, if applicable, must be approved by the city prior to plan approval, and recorded in the deed records upon final plat approval.

2. The inspection and maintenance agreement must identify by name or official title the persons responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, will remain with the property owner and will pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements must be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements must designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.
3. As part of the inspection and maintenance agreement, a schedule must be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement must also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and include remedies for the default thereof.
4. The city, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

16-9.20-L. Evidence of Acquisition of Applicable Local and Non-local Permits

The applicant must certify and provide documentation to the (local permitting authority) that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

16-9.20-M. Off-Site Facilities

1. The stormwater management plan for each land development project must provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility. In addition, on-site measures must be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.
2. A stormwater management plan showing the adequacy of the off-site or regional facility must be submitted to the community development director.
3. To be eligible for a modification, the applicant must demonstrate to the satisfaction of the city that the use of an off-site or regional facility will not result in any of the following impacts to upstream or downstream areas:

- a. Increased threat of flood damage to public health, life, and property;
- b. Deterioration of existing culverts, bridges, dams, and other structures;
- c. Accelerated streambank or streambed erosion or siltation;
- d. Degradation of in-stream biological functions or habitat; or
- a-e. Water quality impairment in violation of state water quality standards, and/or violation of any state or federal regulations.

16-9.30 Design

16-9.10-E, 16-9.30-A. Detention Designs

Detention designs may be rejected if they incorporate structures and facilities that will demand considerable maintenance or will be difficult to maintain or will utilize numerous small structures if other alternatives are physically possible.

16-9.10-F, 16-9.30-B. Discharge Velocities

Discharge velocities from detention facilities must be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure as set forth in the approved *Georgia Stormwater Management Manual*.

16-9.10-G, 16-9.30-C. Design Storm

The drainage system being developed must have adequate capacity to accommodate the flow from all upstream areas for a 100-year storm event.

16-9.10-H, 16-9.30-D. Drainage Outfalls

The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flow from the site, then the design engineer must design drainage facilities with the capacity to over detain flows so they can be accommodated by the existing downstream conveyance structures whereby allowing the existing downstream system to operate correctly. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer must obtain these easements.

Land Uses within

~~Land uses within special flood hazard areas may not diminish or restrict the capacity of the channels or floodplains of the stream, its tributaries, drainage ditches or any other stormwater management facilities or systems and may not increase the IRF elevation or velocity or concentration of flow in downstream areas. The development permit must be denied if the required hydrologic studies reveal that a request for filling or grading within special flood hazard areas would overload the capacity of the channel downstream or increase flood stages upstream, unless equivalent flow and storage capacity is replaced and maintained by the owner within special flood hazard areas. Altered sections of special flood hazard areas must have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.~~

Excavation within Floodplain

~~Excavation within floodplain areas is prohibited unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain must be maintained. The area of compensation within the floodplain is considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no rise certification requirements. The amount of compensation is limited to 150 cubic yards per acre of floodplain area.~~

~~16-9.10-I.~~ 16-9.30-E. Detention Storage

1. The live detention storage to be provided must be calculated on the basis of the 100-year frequency rainfall as published in the *Georgia Stormwater Management Manual*. The detention system must be adequate for the runoff of a 100-year rainfall, for any and all durations from the post-development, with a release rate that does not exceed the pre-development release rate during the same duration storm. Detention control structures and other drainage improvements must be located and designed to prevent erosion damage to adjacent property owners.
2. Detention and sedimentation control facilities may not be placed in any of the following:
 - a. Transitional buffer zones as defined by the city zoning ordinance.
 - b. Floodplains.
 - c. Wetlands.
 - d. Stream buffer zones.
 - e. State buffer zones.
3. Perforated standpipes or a French drain, in accordance with published design standards available from the community development director, or other methods which will achieve equal performance to prevent standing water and inadequate drainage, must be installed within all the detention and sedimentation control facilities.

~~16-9.10-J.~~ 16-9.30-F. Combined Detention

When the applicant requests and the community development director determines that development and construction projects are too small, or that engineering and economic factors make combined detention or other stormwater management facilities more practical, the city may authorize the joint construction of these facilities to serve 2 or more properties by 2 or more applicants. ~~This authorization must be granted by the zoning board of appeals upon application for approval being submitted through the community development director. Where joint detention facilities serving 2 or more properties are approved for construction, no use of land or occupancy of buildings within the properties served by these facilities may be permitted until completion of the detention facility, except upon approval of the zoning board of appeals.~~

~~16-9.10-K.~~ **16-9.30-G. Fencing**

1. Permanent fencing at least 4 feet in height is required around all stormwater and sedimentation control facilities designed for temporary storage of stormwater if they have a water storage depth of greater than 4 feet or they are designated by the city or board of health as a public health hazard.
2. Required fencing must be designed, installed and maintained to allow the free flow of runoff and sediment into the facility. Fencing must be established on the outside edge of a facility. The fence must include a gate of sufficient size to permit entrance of equipment necessary to allow periodic maintenance activities. The gate must be placed in a manner such that the gate does not obstruct reasonable access or become obstructive. The community development director may waive fencing in nonresidential areas where a pond is more than 500 feet from a residential zoning district and in residential zoning districts when detention is provided in natural areas such as stream channels and fencing in the opinion of the community development director would damage the environment or affect stream flow.

~~16-9.10-L.~~ **16-9.30-H. Special Flood Hazard Area Elevation Contours**

In residential districts, not less than 70% of the minimum lot area, as established by applicable zoning district development standards, must be above the special flood hazard area elevation contours with the exception that lots in the R-150 district must conform to requirements of the R-100 district.

Buildings Adjacent to Special Flood Hazard Areas

~~All buildings located adjacent to special flood hazard areas must be constructed so that all portions of the structure, including the basement floor or crawl areas, are at least 3 feet above the intermediate regional flood elevations; however, structural support units may be located within special flood hazard areas, provided they do not conflict with the hydrologic design characteristics of the approved plans and do not conflict with other requirements of this article. Any structure or manufactured home so erected must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure, and be constructed with flood-resistant materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities must be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofing of residential construction must be in accordance with §16-8-90. When floodproofing is utilized for a nonresidential structure, the owner of the property must obtain written certification from a registered professional engineer or architect and must provide such certification to the community development director before the community development director approves such activity.~~

~~16-9.10-M.~~ **16-9.30-I. Street Centerline Elevations**

The profile elevation of the centerline of all public streets must be constructed a minimum of one foot above special flood hazard area elevation contours. The community development director may grant exceptions to this provision in cases where construction of the street elevation is ~~below the intermediate~~ within a special flood hazard

~~area regional flood elevation~~ and elevation contours would improve drainage or reduce the effects of flooding.

Development in Floodway

~~Any proposal for development in a floodway as identified on the flood boundary floodway map must be accompanied by engineering certifications assuring that no increase in the flood levels of the base flood would be caused by the proposed development. Such proposals include culverts and bridges.~~

Enclosed Areas Below Base Flood Elevation

~~New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation must be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls, as follows:~~

~~Designs for complying with this requirement must either be certified by a currently state registered professional engineer or currently state registered professional architect and meet the following minimum criteria:~~

~~The designs must provide a minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.~~

~~The bottom of all openings may be no higher than one foot above grade.~~

~~Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~

~~Electrical, plumbing and other utility connections are prohibited below the base flood elevation.~~

~~Access to the enclosed area must be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~

~~The interior portion of such enclosed area may not be partitioned or finished into separate rooms.~~

16-9.40 Performance Criteria

The performance criteria of this section apply to all stormwater management plans, unless otherwise expressly stated.

16-9.40-A. Water Quality

All stormwater runoff generated from a site must be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

1. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the *Georgia Stormwater Management Manual*;

2. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the *Georgia Stormwater Management Manual*; and,
3. Runoff from hotspot land uses and activities identified by the community development department are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

16-9.40-B. Stream Channel Protection

1. Protection of stream channels from bank and bed erosion and degradation must be provided by using all of the following 3 approaches:
 - a. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
 - b. 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event; and
 - c. Erosion prevention measures such as energy dissipation and velocity control.
2. The community development director is authorized to waive the detention storage requirements of 16-9.40-B.1.b for sites that discharge directly into piped stormwater drainage systems, larger streams, rivers, wetlands, lakes, estuaries, tidal water or other situations where flows will not have a negative impact on stream bank stability or channel integrity.²⁴

16-9.40-C. Overbank Flooding Protection

Downstream overbank flood and property protection must be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.

16-9.40-D. Extreme Flooding Protection

Extreme flood and public safety protection must be provided by controlling and safely conveying the 100-year, 24-hour return frequency storm event such that flooding is not exacerbated.

16-9.40-E. Structural Stormwater Controls

All structural stormwater management facilities must be selected and designed using the appropriate criteria from the *Georgia Stormwater Management Manual*. All structural stormwater controls must be designed appropriately to meet their in-

²⁴ Added (2) since release of April 30, 2013 draft.

tended function. For other structural stormwater controls not included in the *Georgia Stormwater Management Manual*, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the community development director before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the community development director may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question. Applicants must consult the *Georgia Stormwater Management Manual* for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

16-9.40-F. Stormwater Credits for Nonstructural Measures

The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under Sec. 16-9.40-A. The applicant may, if approved by the community development director, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are identified in the *Georgia Stormwater Management Manual*.

16-9.40-G. Drainage System Guidelines

Stormwater conveyance facilities, which may include culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters must be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, must meet the following requirements:

- 1. Methods to calculate stormwater flows must be in accordance with the stormwater design manual;**
- 2. All culverts, pipe systems and open channel flow systems must be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and,**
- 3. Design and construction of stormwater conveyance facilities must be in accordance with the criteria and specifications found in the stormwater design manual.**

16-9.40-H. Dam Design Guidelines

Any land disturbing activity that involves a site that proposes a dam must comply with the *Georgia Safe Dams Act and Rules for Dam Safety*, as applicable.

16-9.50 Inspections and Maintenance**16-9.50-A. Inspections during Construction**

1. Periodic inspections of the stormwater management system construction must be conducted by the community development department or conducted and certified by a professional engineer approved by the community development director. Construction inspections must utilize the approved stormwater management plan for establishing compliance. All inspections must be documented with written reports that contain the following information:
 - a. The date and location of the inspection;
 - b. Whether construction is in compliance with the approved stormwater management plan;
 - c. Variations from the approved construction specifications; and,
 - d. Any other variations or violations of the conditions of the approved stormwater management plan.
2. If any violations are found, the applicant must be notified in writing of the nature of the violation and the required corrective actions.

16-9.50-B. Final Inspections and As-built Plans

Upon completion of a project, and before a certificate of occupancy may be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as-built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a professional engineer. A final inspection by the city is required before the release of any performance bonds or financial guarantees.

16-9.50-C. Long-Term Maintenance and Inspections

1. Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this article.
2. A stormwater management facility or practice must be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the ~~community public works development~~ director must notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice must specify the measures needed to comply with the agreement and the

plan and must specify the time within which such measures must be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the city may pursue all available enforcement actions and penalties.

3. Inspection programs by the city may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

16-9.50-D. Right-of-Entry for Inspection

The terms of the inspection and maintenance agreement must provide authority for authorized city or city contracted officials to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the city has a reasonable basis to believe that a violation is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation.

16-9.10-N-16-9.50-E. Maintenance Responsibilities

1. Except as otherwise provided in this section, commercial and/or multifamily residential property owner is responsible for the maintenance of the stormwater management facilities during grading, construction, and following final approval of the completed project. This maintenance and certification obligation is binding on all future owners, successors and assigns of the property.

~~In the case of single family residential subdivisions approved after the date of adoption of this provision, and in accordance with the requirements of article III of this chapter, the city may assume maintenance responsibility one year after the release of the performance bond for subdivision streets. A special drainage district, as authorized by the Georgia Constitution article IX, §II, ¶ VI, may be established for property in a single family residential subdivision at the time the plat is finally recorded, and will be so noted on the plat. Upon completion of developer maintenance, all detention ponds must have a positive slope to the outlet in order to facilitate complete drainage.~~

2. Stormwater management facilities in single-family residential subdivisions constructed under permits issued prior to the adoption of the city ordinance assigning maintenance responsibility will not be accepted for city maintenance unless individually approved by and at the discretion of the zoning board of appeals and suitable access easements are provided. ~~At the time the community development director accepts a detention facility for city maintenance, a special drain-~~

~~age district may be established that includes all properties for which the detention facility is designed to compensate for increased peak runoff rates due to development.~~

16-9.50-F. Records

Parties responsible for the operation and maintenance of a stormwater management facility must provide records of all maintenance and repairs to the community public works-development director.

16-9.50-G. Failure to Maintain

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the community development public works director, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice is deemed sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The city may assess the owners of the facility for the cost of repair work, which will be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

~~16-9.10-G.~~ 16-9.50-H. Special Drainage System Maintenance Requirements

1. Pursuant to all applicable city and county law, trash, garbage, construction materials, construction by-products or other debris may not be deposited in any part of the drainage system.
2. No restriction or barriers, including fences, may be placed in the drainage system or special flood hazard areas without first obtaining a development permit. When on-site or off-site debris has accumulated within a special flood hazard area in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to special flood hazard areas, the community development director must require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.
3. No impoundment of water which retains in excess of 0.5 acre-foot of runoff may be removed without first obtaining a development permit, which may only be issued after competent engineering studies provided by the applicant show that this removal will not adversely affect downstream properties.

~~No permanent structures or additions may be constructed within special flood hazard areas other than those nonbuilding facilities required or authorized by the community development director which will not conflict with the hydrologic design characteristics of the approved development and construction plans. Land within special flood hazard areas may be used to meet setback, yard, open space and buffer requirements in accordance with applicable provisions of the city zoning ordinance and the buffer requirements of this chapter.~~

Article 10 Tree Preservation²⁵

16-10.10 General

16-10.10-A. Intent

The intent of this section is to provide standards for the preservation of trees as part of the land development and building construction process for the purpose of making the City of Dunwoody a more attractive place to live, provide a healthy living environment, and to better maintain control of flooding, noise, glare and soil erosion.

16-10.10-B. Purpose

The purpose of this section is to facilitate the preservation and/or replacement of trees as part of the land development and construction process.

16-10.10-C. Benefits

Benefits derived from tree protection and replanting include:

1. Improved control of soil erosion;
2. Moderation of stormwater runoff, and improved water quality;
3. Interception of airborne particulate matter, and the reduction of some air pollutants.
4. Enhanced habitat for desirable wildlife;
5. Reduction of noise and glare;
6. Climate moderation and the reduction of the heat island effect;
7. Aesthetics, scenic amenity;
8. Increased property value; and
9. Assistance in traffic calming.

16-10.10-D. Applicability

The terms and provisions of this section apply to any activity on real property which requires the issuance of a development permit or substantial building permit within the City of Dunwoody. No development permit or substantial building permit may be issued by the city without it being determined that the proposed development is in conformance with the provisions of these regulations.

²⁵ The regulations of this article have been taken from Chapter 16, Article II, Division 5 (Tree Protection). The “Landscape Strip” requirements of existing sections 16-185 through 16-188 have not been carried over (because equivalent regulations are included in the zoning ordinance. No other substantive changes are included unless expressly noted within the text.

16-10.20 Permit Procedure**16-10.20-A. Submittal of Tree Protection Plan**

All applications for a development permit or a substantial building permit must be accompanied by a tree protection plan prepared and sealed by a registered landscape architect, certified arborist, or registered forester. The tree protection plan must include the following information:²⁶

1. Tree Survey

The tree survey must be a to-scale map or site plan that has been prepared and sealed by a registered landscape architect, certified arborist, registered forester, registered surveyor, or registered engineer. The tree survey must include the following minimum requirements:

- a. All specimen trees are to be located and labeled with their size and species. Their critical root zone must be delineated and the spot elevation at the base of their trunk must be indicated. They must also be labeled in a way to determine if they are intended for removal or preservation.
- b. All trees with a DBH measurement of 12 inches or larger must be located and their size and species must be indicated.
- c. Sampling methods may be used to determine tree density calculations for forested areas over 5 acres.

2. Definition of Spatial Limits

- a. Limits of land disturbance, clearing, grading, and trenching.
- b. Tree protection zones.
- c. Areas of revegetation.
- d. Indication of staging areas for parking, material storage, concrete washout, debris burn, and other areas where tree protection may be affected.
- e. Locations of existing and proposed structures, paving, driveways, cut and fill areas, detention areas, utilities, etc.

3. Detail Drawings of Tree Protection Measures (Where Applicable)

- a. Protective tree fencing;
- b. Erosion control fencing;
- c. Tree protection signs;
- d. Transplanting specifications;
- e. Tree wells and aeration systems;

²⁶ May require additional review/refinement

- f. Staking specifications; and
- g. Other applicable drawings.

4. Tree Density Calculations

See Appendix A.

5. Installation and Maintenance Measures

Procedures and schedules for the implementation, installation, and maintenance of tree protection measures.

16-10.20-B. Site Inspection

An on-site inspection will be made by the city arborist prior to the commencement of any development activity.

16-10.20-C. Review

All landscape plans, tree protection plans, and related documentation must be reviewed by the city arborist for conformance to the provisions of these regulations and either approved, returned for revisions, or denied within 30 days of receipt. If denied, the reasons for denial must be annotated on the landscape plan or otherwise stated in writing.

16-10.20-D. Permit Issuance

Issuance of the development permit or a substantial building permit is contingent upon approval of the required tree protection plan and landscape plan and an on-site inspection by the city arborist for tree protection measures.

16-10.30 Tree Removal

16-10.30-A. Nothing in these regulations may be construed as allowing the removal of vegetation in a natural, undisturbed buffer required by zoning or land development regulations.

16-10.30-B. Trees may not be removed from any protected zone. When preserving trees in a protected zone will result in a documented economic hardship, an exception may be made. The documentation proving the hardship must be submitted as part of the tree protection plan.

16-10.30-C. When no trees are present in a protected zone or when it is proposed that any portion of a protected zone be disturbed, it is the responsibility of the owner/developer to landscape the areas (where improvements are not constructed) with trees or other plant materials.

16-10.30-D. The city arborist is authorized to permit the removal of dead, diseased, insect-infested or trees that pose a hazard to life or property, if the property owner provides evidence of the condition of the trees prior to their removal. Documentation may include photographs or a report by a certified arborist.

16-10.30-E. Trees may not be removed from a floodplain except as follows:

1. Those trees found to be [hazardous](#), dead, diseased, or insect-infested by the city arborist, the county extension service, the Georgia Forestry Commission, or a registered forester.
2. As necessary for construction, repair, or maintenance of public roads, utilities, or drainage structures.

16-10.40 Tree Replacement and Revegetation

16-10.40-A. Applicability

Replacement of trees in the minimum required landscape areas, as determined by this section, must occur under the following conditions:

1. To establish the minimum tree density requirements for the site.
2. Where grading occurs outside the buildable area of the lot.
3. If the buildable area of the lot leaves no protected zone.
4. If no trees are present within an existing protected zone.
5. Where specimen trees or specimen stands of trees within the buildable portion of the lot are to be removed.
6. Where specimen trees or specimen stands of trees, and trees within otherwise designated tree protective zones have been irreparably damaged or removed through development or construction activities.

16-10.40-B. Replacement Quantity

1. Except as specified for single-family residential lots in [§16-10.40-B.2](#), the quantity of replacement trees on a site must be sufficient to produce a total site tree density factor of no less than 20 units per acre (Note: the terms unit and tree are not interchangeable). Procedures for determining the site density requirements and the subsequent tree replacement requirements are provided in Appendix A. A required buffer or trees located in the floodplain may not be counted towards tree density. Understory trees may constitute no more than 25% of the required replacement trees, but lots smaller than 8,000 square feet in area are exempt from this limit.
2. The following number of trees must be planted or preserved on all single-family residential lots developed in the city:

Lot Size	Number of Required Trees
≤8,000 square feet	1 tree
8,001 to 15,000 square feet	2 trees
15,001 to 20,000 square feet	3 trees
20,001 to 25,000 square feet	4 trees
25,001 to 30,000 square feet	5 trees
≥30,001 square feet	1 tree per 5,000 square feet of lot size

16-10.40-C. Spacing

The spacing of replacement trees must be compatible with spatial limitations, and within responsible considerations towards potential species size.

16-10.40-D. Specimen Trees

All reasonable efforts be made to save specimen trees. ("Reasonable effort" includes alternate building design, building location, parking area layout, parking area location, water retention location and equivalent or similar measures).

16-10.40-E. Tree Save Areas

Tree save areas are encouraged and will be given credit of up to 50% individual lot requirements when the number of trees in the tree save areas is equal to or greater than the total number of trees required on the total number of lots within the subdivision.

16-10.40-F. Tree Replacement Fund

Occasionally, ~~this intent~~ [the tree replacement requirements of this section](#) cannot be met because a project site will not bear the required density of trees. In this case, the city arborist may approve a contribution to the City of Dunwoody Tree Replacement Fund. The following standards have been established for administering these contributions:

1. The city arborist must review and approve all requests for alternative compliance. In no instance may 100% of the required site density be met through alternative compliance. As many trees as can reasonably be expected to survive must be planted on the site in question.
2. No permit may be issued until the required contribution has been made to the tree replacement fund.
3. The amount of the contribution must be determined from the fee schedule for the community development department.
4. The City of Dunwoody Tree Replacement Fund must be used for planting trees on public property. Funds may be used for the purchase of trees, installation of trees and irrigation, and the purchase of mulch and soil amendments for the planted areas.
5. Species selected for replacement must be quality specimens and must be ecologically compatible with the specifically intended growing site. No single tree species may be used for more than 35% of replacement trees. Evergreens may not be used for more than 25% of the trees in non-buffer areas. Standards for transplanting and selecting quality replacement stock must be in accordance with standards of the International Society of Arboriculture, National Association of Arborists, American Standard for Nursery Stock and Appendix B.

6. Understory replacement trees may account for no greater than 25% of the required tree density units. The city arborist is authorized to approve the additional use of understory trees for meeting density requirements on single-family lots if the size and/or layout of the lot does not allow for large overstory trees.
7. Species selection and replacement densities are subject to approval by the city arborist.

16-10.50 Specimen and Special Trees

16-10.50-A. Criteria

Some trees on a site warrant special consideration and encouragement for preservation. These trees are referred to as specimen or special trees. The following criteria are used by the city arborist to identify specimen and special trees. Both the size and condition must be met for a tree to qualify.

1. Tree Size

Criteria	Special Trees	Specimen Trees
Minimum size for hardwoods	14" to 23" DBH	24" DBH
Minimum size for softwoods	20" to 29" DBH	30" DBH
Minimum size for understory trees	4" to 5" DBH	6" DBH
Minimum Life Expectancy	25 years	15 years

2. Tree Condition

- a. Relatively sound and solid trunk with no extensive decay.
- b. No more than one major and several minor dead limbs.
- c. No major insect or pathological problems.
- d. No major pruning deficiencies, i.e. topping.
- e. At least 75% of the critical root zone in a natural, undisturbed state.

16-10.50-B. Tree Density Credit

In order to encourage the preservation of specimen and special trees and the incorporation of these trees into the design of projects, additional density credit will be given for specimen and special trees which are successfully saved and maintained. Credit for any specimen or special tree thus saved would be 1½ times the assigned unit value shown in Appendix A. Should the property owner retain the services of a certified arborist to improve the quality of the trees (services include, but are not limited to, installation of cabling and bracing, installation of lighting protection, corrective pruning, removal of deadwood, supplemental irrigation, introduction of mycorrhizae, etc.), the density credit will be increased to 2 times the assigned value designated in Appendix A. The property owner must supply a letter of commitment from the certified arborist and/or provide documentation of services provided in order to receive the increased density credit.

16-10.50-C. Preservation of Tree Stands

The city arborist may identify and require the preservation of a tree stand if it contains one or more specimen or special trees and the trees are interlocked with other members of the stand in such a manner as to imperil the individual tree if other members of the stand were to be removed.

16-10.50-D. Removal of Specimen Trees

No specimen tree may be removed without the prior written approval of the city arborist.

1. Specimen trees that are approved for removal must be replaced by species with potential for comparable size and quality. All specimen trees must be replaced with 3-inch caliper or larger trees at a density of 1½ times the unit value of the tree removed, i.e. a 30-inch DBH specimen tree (4.9 density units) must be replaced with 7.35 units. Specimen tree replacement density is in addition to the minimum required density for the site.
2. Any specimen tree which is fatally damaged during construction, as determined by the city arborist, or removed without the appropriate review and approval of the city arborist, must be replaced with 4-inch caliper or larger trees with a total density equal to 3 times the unit value of the tree removed. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval. Additionally, the area that encompassed the critical root zone of the specimen tree must remain undisturbed to allow for the planting of replacement trees.
3. The city arborist is authorized to permit the removal of one healthy specimen tree per calendar year from any lot occupied by a detached house without complying with the tree replacement provisions of this section. The property owner must provide written notice to the city arborist at least 5 working days before removal. Any additional specimen trees proposed for removal are subject to full compliance with the provisions of this article, including requirements for tree replacement. Unauthorized removal of specimen trees is a violation of this chapter, subject to all available penalty and enforcement actions.

16-10.60 Tree Protection Measures

The following minimum tree protection measures must be in place for all tree save areas:

16-10.60-A. Tree Protection Fencing

Trees identified for preservation must have protection fencing that is a minimum of 4 feet high installed at the edge of the critical root zones. The city arborist is authorized to require the installation of 4-foot high minimum chain link fencing in those areas where the likelihood of possible encroachment occurs. All tree protection zones must be designated as such with signage posted visibly on all sides of the fenced area. Signs requesting workers' cooperation and compliance with tree protection standards are recommended at the site entrance(s).

16-10.60-B. Silt Fences

All tree protection zones must be designed to prevent the sedimentation of erosion material. Silt fences must be placed along the outer uphill edges of tree protection zones at the development interface.

16-10.60-C. Encroachment

No person may encroach into the tree protection zones. Construction activities, including but not limited to, parking, vehicle and foot traffic, material storage, concrete washout, debris burning, and other activities must be arranged so as to prevent disturbance within the protected areas.

16-10.60-D. Utilities

Reasonable efforts must be made to locate utility lines along corridors between tree protection zones. If utility lines must encroach into the protection zones, they must be installed by tunneling rather than trenching.

16-10.60-E. Maintenance of Tree Protection

All tree protection devices must remain in fully functioning condition until the certificate of occupancy is issued.

1. Any tree, designated for preservation, which is negligently damaged during construction or removed without the appropriate review and approval, as determined by the city arborist, must be treated in accordance with the National Arborists Association Standards. If fatally damaged, the tree(s) must be replaced with 4-inch caliper trees equal to the unit value of the tree removed. Any specimen tree damaged as described above must be replaced with trees equal to 3 times the unit value of the tree removed.
2. All tree protection zones must be mulched with at least 4 inches and not more than 8 inches of organic mulch, such as pine straw, wood chips, tree leaves, or compost.
3. Construction activity is prohibited inside the tree save areas, including but not limited to, grading, paving, and construction of buildings and other structures.
4. The site must be designed and maintained in a manner to ensure proper drainage in tree save areas during and after construction.

16-10.60-F. Tree Protection Supervisors

The developer must designate a tree protection supervisor. This person must demonstrate knowledge in the area of tree protection practices during construction and must be on-site to ensure tree protection measures are enforced. The tree protection supervisor must participate in a pre-construction conference with the city prior to the commencement of any development. The tree protection supervisor must notify the city arborist immediately should any tree damage occur on the site.

16-10.60-G. Inspections

Tree protection inspections must be performed by a certified arborist or registered forester during construction. The inspections must be conducted prior to the commencement of development, immediately following the clearing and grubbing phase, immediately following the grading phase, and at the end of the project before a certificate of occupancy (commercial developments) is issued or the final plat approved (residential developments). The site must be inspected to ensure all tree protection regulations are being met and to identify any existing or developing tree-related problems that require treatment. An inspection report must be prepared and certified by the inspector and submitted to the city arborist. Any damage noted must be treated in accordance with the recommendation of the inspector prior to the issuance of a certificate of occupancy or approval of the final plat. The city arborist is authorized to require additional reports should he/she determine significant construction damage has occurred, the tree protection supervisor has failed to enforce minimum protection standards, or if other development processes, including but not limited to utility placement and building construction, may impact the tree save areas.

16-10.70 Maintenance

All maintenance activities performed on preserved or planted trees to be included in the tree density requirements must be performed in accordance with the most current professional standards, including, but not limited to, the standards described below. It is the responsibility of the property owner to ensure such work is in compliance. Should maintenance activities on the trees not be in compliance with such professional standards, the property owner will be responsible for replacing the damaged trees with new trees of an equivalent density value, based on the DBH at the time damage occurs.

16-10.70-A. Nursery stock

All nursery stock must meet standards defined in the American Standard for Nursery Stock ANSI Z60.1.

16-10.70-B. Pruning

All pruning must be done in accordance with ANSI A300 (Part 1) Standards for Tree Care Operations—Pruning. Tree topping is not allowed. Crown reduction pruning must be used instead to reduce the height of a tree when necessary. Topped trees may not be counted toward tree density requirements.

16-10.70-C. Fertilization

All tree fertilization must be performed in accordance with ANSI A 300 (Part 2) Standards for Tree Care Operations—Fertilization.

16-10.70-D. Cabling and Bracing

All cabling and bracing installation and maintenance must be performed in accordance with ANSI A300 (Part 3) Standards for Tree Care Operations—Cabling and Bracing.

16-10.70-E. Lightning Protection

All lightning protection installation and maintenance must be performed in accordance with ANSI A300 (Part 4) Standards for Tree Care Operations–Lightning Protection.

16-10.70-F. Safety

All tree-related work must be performed in accordance with ANSI Z133.1 Standards for Tree Care Operations–Safe Work Practices.

16-10.80 Alternative Compliance

The city arborist is authorized to approve alternate methods of compliance with the provisions of this article when he/she determines the overall intent of the article and/or specific guidelines can be met.

16-10.90 Enforcement and Penalties**16-10.90-A. Enforcement**

It is city arborist's duty to enforce this section. The city arborist has the authority to revoke, suspend, or void any development permit and the authority to suspend all work on a site or any portion thereof.

16-10.90-B. Violation and Penalties

Any person, firm, or corporation violating any of the provisions of this section may be deemed guilty of an ordinance violation. Each day's continuance of a violation is a separate offense. The owner of any property upon which a violation exists, and any builder, contractor, agent who may have assisted in the commission of any violation, is guilty of a separate offense. The Dunwoody Municipal Court has jurisdiction to try offenses to these regulations.

16-10.90-C. Appeal

Any person aggrieved or affected by any decision of the city arborist relating to the application of this section may appeal to the zoning board of appeals for relief or reconsideration within 30 days from the date of the adverse determination by the city arborist.

16-10.100 Additional Information

The following rules and regulations are established by the council from time to time and are kept and maintained by the clerk:

16-10.100-A. Lists of approved street trees, their locations, and the locations of the root barriers;

16-10.100-B. Standards for substantial building permits; and

16-10.100-C. Tree replacement and planting rules and regulations.

Article 11 Groundwater Recharge Areas

16-11.10 Environmental Planning Criteria

Development within groundwater recharge areas, as delineated by the Georgia Department of Natural Resources' Significant Recharge Areas, Hydrological Atlas 18 and DNR's Pollution Susceptibility Map, must comply with the criteria for the protection of groundwater recharge areas established in chapter 391-3-16-.02 of DNR's *Rules for Environmental Planning Criteria* (Ga. Comp. Rules and Regs. 391-3-16-.02).

Article 12 Flood Damage Prevention²⁷

16-12.10 General

16-12.10-A. Findings of Fact

1. The flood hazard areas of the city are subject to periodic inundation which results in loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by uses that are inadequately elevated, flood-proofed, or protected from flood damage. The cumulative effects of obstructions in special flood hazard areas which increase flood heights and velocities also contribute to flood damage and loss.

16-12.10-B. Purposes

It is the purpose of the flood damage prevention regulations of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
6. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in a special flood hazard area; and
8. Ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

²⁷ Most of the provisions of this article (currently found in Article IV of Chapter 16) have been amended to follow the MNGWPD model regulations. Proposed changes of a substantive nature are noted.

16-12.10-C. Methods of Reducing Flood Losses

In order to accomplish its purposes, this article includes methods and provisions to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

16-12.10-D. Applicability

The flood damage prevention regulations of this article apply to all special flood hazard areas within the City of Dunwoody, ~~and all new or substantial improvement residential units, all subdivisions, nonresidential structures, manufactured homes, recreational vehicles, and utilities. This article will be enforced in areas outside the flood plain where runoff poses a risk similar to the special flood hazard areas.~~

16-12.10-E. Compliance

All structures and land may hereafter be constructed, located, extended, converted, or altered only in full compliance with the terms of this article and other applicable regulations.

16-12.10-F. Violations²⁸

Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a violation of this chapter. Any person who violates the flood damage prevention regulations of this article or who fails to comply with any of its requirements will, upon conviction, be subject to a fine and/or imprisonment in accordance with section 1-6 of the municipal code. Each day such violation continues is a separate offense. The city council may take any other lawful action necessary to prevent or remedy any violation. See also the general enforcement provisions of Sec. [16-5.100](#).

16-12.10-G. Basis for Establishing Special Flood Hazard Areas

1. The special flood hazard areas identified by the Federal Insurance Administration of the Federal Emergency Management Agency in the flood insurance study

²⁸ The MNGWPD model contains an extensive section on “violations, penalties and enforcement,” which has not been reproduced here because the city code appears to provide equally robust powers of enforcement.

dated June 15, 1994, and the accompanying flood insurance rate maps and flood boundary and floodway maps dated June 15, 1994, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this article. ~~The study, flood insurance rate maps and flood boundary and floodway maps are on file at the department of public works.~~

2. The flood insurance study and accompanying flood insurance rate maps and flood boundary and floodway maps depict the minimum area of applicability of this article and may be supplemented by studies for other areas that allow implementation of this article and that are recommended to the city council by the floodplain coordinator.
3. Examples of other studies that may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain and flood-prone areas include:
 - a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey or any other local, state or federal agency; or
 - b. Any base flood study authored by a registered professional engineer in the State of Georgia that has been prepared by FEMA-approved methodology and approved by the community development director.
4. Examples of other studies that may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood-prone areas include:
 - a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency; or
 - b. Any future-conditions flood study authored by a registered professional engineer in the State of Georgia that has been prepared by FEMA-approved methodology approved by the community development director.

~~or may be found at the county department of public works, division of roads and drainage. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.~~

16-12.10-H. Repetitive Loss Structure and Cumulative Substantial Damage²⁹

A building must be brought into compliance with requirements for new construction if it has incurred flood-related damages on 2 or more occasions during a 10-year period in which the cost of repairing the flood damage, on average, was 25% or more of the market value of the building at the time of each such flood event, or if damage of

²⁹ This provision is not included in the MNGWPD model provisions. It appears to be a requirement of local origin/importance and therefore has been retained.

any origin is sustained and the cost of restoring the building to its pre-damage condition is 50% or more of the market value of the building before the damage occurred.

Flood Insurance

~~In the event that a property owner chooses not to purchase flood insurance on property at risk, or does not comply with a notice to bring a building into compliance, reducing the community efforts for flood protection, the insurance premium discount for the community's property owners as a community rating system participant, may not apply.~~

16-12.10-I. Warning and Disclaimer of Liability

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article does not create liability on the part of the city council, any officer or employee thereof, the state, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

16-12.20 Definitions

See [Article 4](#).

16-12.30 Administration

16-12.30-A. Floodplain Coordinator

1. Appointment

The community development director is appointed as the floodplain coordinator to administer and enforce this article, in accordance with its provisions.

2. Powers and Duties

~~The general duties and responsibilities of the floodplain coordinator include the following:~~

a. Permit review

~~The floodplain coordinator is responsible for R~~reviewing all development permits to determine that:

- (1) Permit requirements of this article have been satisfied;
- (2) All other required state and federal permits have been obtained; and
- (3) The site is reasonably safe from flooding; ~~and~~

~~The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this article,~~

~~the term "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.~~

b. Review, Use and Development of other Base Flood Data

When base flood elevation data has not been provided ~~in accordance with section 16-814,~~ the community development director is authorized to require the applicant to obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the regulations of this article. ~~Any such information must be submitted to the city council for adoption; or~~

~~If no base flood elevation data is available from a federal or state agency or other source, obtain a base flood elevation using one of 2 methods from the FEMA publication Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-year) Flood Elevations, dated July 1995, in order to administer division 3 of this article:~~

Simplified Method

~~100-year or base flood discharge must be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge drainage area method; and~~

~~Base flood elevation must be obtained using the Quick-2 computer program developed by FEMA; or~~

Detailed Method

~~100-year or base flood discharge must be obtained using the U.S. Army Corps of Engineers' HEC HMS computer program; and~~

~~Base flood elevation must be obtained using the U.S. Army Corps of Engineers' HEC RAS computer program.~~

c. Notification of other Agencies

Before ~~in~~ the alteration or relocation of a watercourse, the community development director must:

- (1) Notify adjacent communities and the state department of water natural resources ~~prior to alteration or relocation; and~~
- (2) Submit evidence of such notification to the ~~Federal Insurance Administration,~~ Federal Emergency Management Agency, ~~and~~

~~Ensure that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.~~

3. Documentation of Floodplain Development

The community development director is responsible for reviewing and Obtain and maintain~~ing~~ for public inspection and make available as needed all elevations and certifications required under Sec. 16-12.30-B.

4. Map Determinations

The community development director is authorized to Mmake interpretations where needed, as to determine the exact location of the boundaries of the special flood hazard areas. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations must be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary must be given a reasonable opportunity to appeal the interpretation.~~as provided in section 16-854~~

5. Remedial Actions

The community development director is responsible for Take action to enforcing and taking actions to remedy violations of this article.~~as specified in section 16-815~~

16-12.30-B. Development Permits

A development permit must be obtained before any construction or other development begins within any special flood hazard area. Application for a development permit must be made on forms furnished by the floodplain coordinator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

1. Application Stage

An application for a development project with any special flood hazard area located on the subject site must include a floodplain management/flood damage prevention plan, which must include all of the following information:

a. Site plan, including, but not limited to:

- (1)** Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
- (2)** Spot ground elevations for all proposed structures, at building corners and 20-foot or smaller intervals along the foundation footprints, or one foot contour elevations throughout the building site;
- (3)** Proposed locations of water supply, sanitary sewer, and utilities;
~~If available, the base flood elevation from the flood insurance study and/or flood insurance rate map; and~~
- (4)** Proposed locations of drainage and stormwater management facilities;

-
- (5) Proposed grading plan;
 - (6) Base flood elevations and future-conditions flood elevations;
 - (7) Boundaries of the base flood floodplain and future-conditions floodplain;
 - (8) If applicable, the location of the ~~regulatory~~ floodway; and
 - (9) Certification of the above by a registered professional engineer or surveyor.
- b. Building and Foundation design detail, including, but not limited to:
- (1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

~~For a crawl space foundation, location and total net area of foundation openings as required in section 16-877(3) and FEMA Technical Bulletins 1-93 and 7-93; and~~

~~For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95% using the Standard Proctor Test Method); and~~
 - (3) Certification that any proposed nonresidential floodproofed structure meets the criteria in Sec. 16-12.50-B.2;
 - (4) For enclosures below the base flood elevation, location and total net area of foundation openings as required in Sec. 16-12.50-A.5.
 - (5) Design plans certified by a registered professional engineer or architect for all proposed structures.

~~Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in section 16-877(3)b and FEMA Technical Bulletin TB 3-93;~~

~~All appropriate certifications listed in section 16-877; and~~
- c. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- d. Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre-and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, Special flood hazard areas and floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS;
- e. Copies of all applicable state and federal permits necessary for proposed development; and

~~d.f.~~ All certifications required under this article. The approved floodplain management/flood damage prevention plan must include certification by the applicant that all development activities will be carried out in accordance with the plan or previously approved revisions. Development permits and use and occupancy certificates and permits may be revoked at any time if the construction and development activities are not in strict compliance with approved plans.

2. Construction Stage

- a. For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder must provide to the administrator an as-built elevation certificate or floodproofing certificate for nonresidential construction including certification of the regulatory floor elevation or the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate must be provided after completion of construction, including final grading of the site. Any lowest floor certification made relative to mean sea level must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, the certification must be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- b. Any work undertaken prior to submission of these certifications is at the permit holder's risk. The administrator must review the referenced certification data submitted. Deficiencies detected by such review must be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make the required correction is cause to issue a stop-work order for the project.

~~Method of Disclosure~~

~~The adopted method for disclosure at the time of sale or rental of a property is accomplished by providing to the interested parties, general public, realtor, insurance, mortgage and engineering consulting firms of an electronic database listing all properties in the floodplain, annually updated, and free of charge. Permits issued for construction in the floodplain must be forwarded to the city clerk.~~

16-12.30-C. Record Maintenance Error! Bookmark not defined.

All records pertaining to the provisions of this article must be maintained in the department of community development and must be open for public inspection.

16-12.30-D. Appeals Error! Bookmark not defined.

The city council is authorized to hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain coordinator in the enforcement or administration of this article.

16-12.40 Standards for Development³⁰

16-12.40-A. Floodplain Boundaries

1. Studied “A” zones, as identified in the FIS, must be used to establish base flood elevations whenever available.
2. For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations must be provided by the community development director. If future-conditions elevation data is not available from the city, then it must be determined by a registered professional engineer using a method approved by FEMA and the community development director.

16-12.40-B. Floodway Boundaries

The width of a floodway must be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the floodway must be provided by the community development director. If floodway data is not available from the city, then it must be determined by a registered professional engineer using a method approved by FEMA and the community development director.

16-12.40-C. General Standards

1. No development is allowed within the future-conditions floodplain that could result in any of the following:
 - a. Raising the base flood elevation or future-conditions flood elevation by 0.01 foot or more;
 - b. Reducing the base flood or future-conditions flood storage capacity;
 - c. Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or,
 - d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
2. Any development that is allowed within the future-conditions floodplain pursuant to the preceding paragraph 1 must also comply with the following conditions:
 - a. Compensation for storage capacity must occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and must be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of

³⁰ The provisions of this section are entirely new; from MNGWPD model ordinance.

natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case may any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

- b. Cut areas must be stabilized and graded to a slope of no less than 2.0%;
- c. Effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
- d. Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics must be provided via a step-backwater analysis meeting the requirements of Sec. 16-12.40-D;
- e. Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, must be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
- f. Any significant physical changes to the base flood floodplain must be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal is subject to approval by the community development director using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The applicant is responsible for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval. Within 6 months of the completion of construction, the applicant must submit as-built surveys for a final Letter of Map Revision (LOMR).

16-12.40-D. Engineering Study Requirements for Floodplain Encroachments

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of Sec. 16-12.50-D apply. This study must be prepared by a registered Professional Engineer and made a part of the application for a permit. This information must be submitted to and approved by the community development director before the approval of any permit that would authorize the disturbance of land located within the future-conditions floodplain. The study must include:

- 1. Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- 2. Step-backwater analysis, using a FEMA-approved methodology approved by the community development director. Cross-sections (which may be supplemented by the applicant) and flow information must be obtained whenever available. Computations must be shown duplicating FIS results and must then be rerun

with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;

3. Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
4. The study must include a preliminary plat, grading plan, or site plan, as appropriate, which clearly defines all future-conditions floodplain encroachments.

16-12.40-E. Floodway Encroachments

Located within special flood hazard areas are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increasing flood heights. Therefore the following provisions apply within floodways:

1. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the floodway, except for activities expressly allowed in the following paragraph 2.
2. Encroachments for bridges, culverts, roadways and utilities within the floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment will not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide the required supporting technical data and certification of the findings.
3. If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway may be issued by the city until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA and no-rise certification is approved by the community development director.

16-12.40-F. Maintenance Requirements

The property owner is responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on the subject property so that the flood-carrying or flood storage capacity is not diminished. The community development director is authorized to direct the property owner (at no cost to the city) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the community development director.

16-12.50 Flood Hazard Reduction³¹**16-12.50-A. General Regulations**

The following regulations apply in all special flood hazard areas:

1. New construction of principal buildings (residential or nonresidential), including manufactured homes, are not allowed within the limits of the future-conditions floodplain, unless all requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) are met;
2. New construction or substantial improvements of existing structures must be anchored to prevent flotation, collapse or lateral movement of the structure;
3. New construction or substantial improvements of existing structures must be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements of existing structures must be constructed by methods and practices that minimize flood damage;
5. All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls must be designed to be an unfinished and flood resistant enclosure. The enclosure must be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) Provide at least 2 openings having a total net area of at least one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings must be no higher than one foot above grade; and,
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwater in both directions.
 - b. So as not to violate the "lowest floor" criteria of these regulations, the unfinished and flood-resistant enclosure may only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,
 - c. The interior portion of such enclosed area may not be partitioned or finished into separate rooms.

³¹ The flood hazard reduction provisions of existing sections 16-872 through 16-882 have been replaced in their entirety with the following provisions, taken from the MNGWPD model ordinance.

6. All heating and air conditioning equipment and components (including duct-work), all electrical, ventilation, plumbing, and other service facilities must be designed and/or located at least 3 feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;
7. Manufactured homes must be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard is in addition to and consistent with applicable state requirements for resisting wind forces;
8. New and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system;
9. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
10. On-site waste disposal systems must be located and constructed to avoid impairment to them, or contamination from them, during flooding; and,
11. Any alteration, repair, reconstruction or improvement to structures that do not comply with the provisions of these regulations, may be undertaken only if the nonconformity is not furthered, extended or replaced.
12. If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards govern.

16-12.50-B. Within Future-Conditions Floodplain

In addition to the general regulations of Sec. [16-12.50-A](#), the following additional regulations apply within the future-conditions floodplain:

1. Residential Buildings

a. New Construction

New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) have been met. If all of the requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) have been met, all new construction must have the lowest floor, including basement, elevated at least 3 feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters must be provided in accordance with Sec. [16-12.50-A.5](#).

b. Substantial Improvements

Substantial improvement of any principal structure or manufactured home must have the lowest floor, including basement, elevated at least 3 feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of flood waters must be provided in accordance with Sec. [16-12.50-A.5](#).

2. Nonresidential Buildings**a. New Construction**

New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) have been met. New construction that has met all of the requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and must provide such certification to the community development director.

b. Substantial Improvements

Substantial improvement of any principal nonresidential structure located in A1- 30, AE, or AH zones, may be authorized by the community development director to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and must provide such certification to the community development director.

3. Accessory Structures and Facilities

Accessory structures and facilities (e.g., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar non-habitable structures and facilities) that are permitted to be located within the limits of the floodplain must be constructed of flood-resistant materials and designed to pass all floodwater in accordance with Sec. [16-12.50-A.5](#) and be anchored to prevent flotation, collapse or lateral movement of the structure.

4. Recreational Vehicles

All recreational vehicles placed on sites must either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
- b. The recreational vehicle must meet all the requirements for substantial improvement of residential buildings in accordance with Sec. [16-12.50-B.1.b](#), including the anchoring and elevation requirements.

5. Manufactured Homes

- a. New manufactured homes are not allowed to be placed within the limits of the future-conditions floodplain unless all requirements of Sec. [16-12.40-C](#), Sec. [16-12.40-D](#) and Sec. [16-12.40-E](#) have been met.
- b. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (1) The lowest floor of the manufactured home is elevated at least 3 feet above the level of the base flood elevation, or at least one foot above the future-conditions flood elevation, whichever is higher; or
 - (2) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with Sec. [16-12.50-A.7](#).

16-12.50-C. Adjacent to the Future-Conditions Floodplain**1. Residential Buildings**

For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, must be at least three feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher.

2. Nonresidential Buildings

For new construction or substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, must be at least one foot above the level of the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher.

16-12.50-D. Streams without Established Base Flood Elevations and/or Floodway (A-Zones)

1. For a residential single-lot development not part of a subdivision within a special flood hazard area, where streams exist but no base flood data have been provided (A-Zones), the community development director must review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions of this article.
2. If data are not available from any of these sources, the following provisions apply:
 - a. No encroachments, including structures or fill material, may be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.
 - b. In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures must have the lowest floor of the lowest enclosed area (including basement) elevated at least 3 feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters must be provided in accordance with Sec. [16-12.50-A.5](#).

16-12.50-E. Areas of Shallow Flooding (AO-Zones)

Special flood hazard areas may include designated "AO" shallow flooding areas. These areas have base flood depths of one to 3 feet above ground, with no clearly defined channel. In these areas the following provisions apply:

1. All substantial improvements of residential and nonresidential structures must have the lowest floor, including basement, elevated at least one foot above the flood depth number in feet specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, must be elevated at least 3 feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters must be provided in accordance with Sec. [16-12.50-A.5](#).
2. Substantial improvement of a nonresidential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of re-

sisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice.

3. Drainage paths must be provided to guide floodwater around and away from any proposed structure.

16-12.50-F. Subdivisions

1. All subdivision proposals must identify the special flood hazard area and provide base flood elevation data and future-conditions flood elevation data;
2. All residential lots in a subdivision proposal must have sufficient buildable area outside of the future-conditions floodplain so that encroachments into the future-conditions floodplain for residential structures will not be required;
3. All subdivision plans must provide the elevations of proposed structures in accordance with Sec. [16-12.30-B](#).
4. All subdivision proposals must be consistent with the need to minimize flood damage;
5. All subdivision proposals must have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of flood waters, and discharges from the systems into flood waters; and,
6. All subdivision proposals must include adequate drainage and stormwater management facilities per the requirements of (jurisdiction) to reduce potential exposure to flood hazards.

16-12.60 Variances³²

16-12.60-A. Nature of Variance

1. The variance criteria set forth in this section are based on the general principle that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this article would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristics must pertain to the land itself, not to the structure, its inhabitants, or the property owners.
2. It is the duty of the city to help protect citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below

³² These are the variance provisions currently included in chapter 16, modified slightly to include elements from the model ordinance. There are some provisions here that are not included in the model ordinance, which appear to have the effect of making the city's regulations stronger than the model, which is allowed.

flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance [procedures guidelines](#) provided in this article are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

16-12.60-B. Factors for Consideration

1. In passing upon requests for variances, the zoning board of appeals must consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger of life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the existing individual owner and future owners of the property;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
2. Any applicant to whom a variance is granted must be given written notice over the signature of the community development director that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and

- ### **16-12.60-C. Conditions for Variances**

1. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
2. Variances may not be issued within any mapped floodway if any increase in flood levels during the base flood discharge would result.
3. Variances may only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief. The term "minimum necessary" means to afford relief with a minimum of deviation from the requirements of this article. For example, in the case of variances to an elevation requirement, this means the zoning board of appeals need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the zoning board of appeals believes will both provide relief and preserve the integrity of the local ordinance. Variances may only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

City of Dunwoody | DRAFT Land Development Regulations | May 30, 2013

- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, ~~cause fraud or victimization of the public,~~ or conflict with existing local laws or ordinances.
4. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of this section (§16-12.60-C) sub-sections (a) through (e) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
5. Variances may not be issued “after the fact.”
6. Upon consideration of the factors ~~of section 16-914(a) in §16-12.60-B~~ and the purposes of this article, the zoning board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

16-12.60-D. Appeals of Zoning Board of Appeals’ Decisions

Any person aggrieved by a flood damage prevention variance or appeal decision of the zoning board of appeals may appeal the decision to the county superior court by petition for a writ of certiorari pursuant to state law.-

PART III: SUBDIVISIONS

Article 13 General Provisions	13-1
16-13.10 Policies and Purposes	13-1
16-13.20 Applicability.....	13-2
16-13.30 Exemptions.....	13-2
16-13.40 Administration and Enforcement	13-3
Article 14 Minor Subdivision Procedure	14-1
16-14.10 Applicability.....	14-1
16-14.20 One-Step Procedure	14-1
16-14.30 Compliance with Subdivision Design and Improvement Standards	14-1
16-14.40 Successive Applications.....	14-1
Article 15 Major Subdivision Procedure	15-1
16-15.10 Sketch Plat/Preliminary Plat	15-1
16-15.20 Final Plats	15-9
Article 16 Subdivision Design	16-1
16-16.10 General.....	16-1
16-16.20 Streets	16-2
16-16.30 Street Trees	16-19
16-16.40 Easements	16-21
16-16.50 Blocks	16-21
16-16.60 Lots.....	16-22
16-16.70 Common Open Space	16-23
16-16.80 Public and Civic Sites	16-24
Article 17 Subdivision Improvements.....	17-1
16-17.10 General.....	17-1
16-17.20 Water	17-1
16-17.30 Sewer	17-5
16-17.40 Streets	17-7
16-17.50 Private Sewage Disposal.....	17-14
Article 18 Subdivision Variances.....	18-1
16-18.10 Authority	18-1

Article 13 General Provisions

16-13.10 Policies and Purposes

16-13.10-A. Policies

1. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the city pursuant to the city's official comprehensive plan in order to promote the orderly, planned, efficient and economical development of the city.
2. Land to be subdivided must be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
3. The existing and proposed public improvements must conform to and be properly related to the proposals shown in the comprehensive plan, official map, the capital improvement budget and other adopted city plans, and it is intended that these regulations supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the comprehensive plan, official map and land use plan, and the capital improvement budget and other plans of the city.

16-13.10-B. Purposes

The city's subdivision regulations ([Article 13](#) through [Article 18](#)) are adopted for the following purposes:

1. To protect and provide for the public health, safety, and general welfare of the citizens of the city;
2. To guide the future growth and development of the city in accordance with the comprehensive plan;
3. To protect and conserve the value of land and the economic stability of all communities in the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques, including consideration of the timing and sequencing of development, consideration of infill development in existing neighborhoods and nonresidential areas with adequate public facilities;
4. To guide public policy and both public and private actions in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and public services and support facilities;
5. To provide for the safe and efficient circulation of [motorized and nonmotorized](#) traffic throughout the city, ~~having particular regard to avoidance of congestion in the streets and highways and the pedestrians and bicycle traffic movements appropriate to the various uses of lands and buildings, and to provide for the proper location and width of streets and building lines;~~

6. To ensure the adequate provision of safe and convenient traffic access and circulation, both motorized and nonmotorized, in new land developments;
7. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land;
8. To ensure to the extent legally possible that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision;
9. To protect and restore the highest quality of the city's air and water resources, to ensure the adequacy of drainage facilities, to safeguard the water table, and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability, and beauty of the city and the value of the land;
10. To preserve the natural beauty, environment, and topography of the city and to ensure appropriate development with regard to these natural features.

16-13.20 Applicability

No person may record any subdivision plat until it has been approved and accepted by the community development director, as the city's designee, nor may any lot be sold by reference to any subdivision plat whether recorded or not, if the plat is made after the effective date of the ordinance from which this chapter is derived, unless it has been approved and accepted by the community development director. The recording of a plat must be based on an approved plat and may not be recorded solely on the basis of a metes and bounds description.

16-13.30 Exemptions

- 16-13.30-A.** The subdivision regulations of [Article 13](#), [Article 14](#), [Article 15](#), [Article 16](#), [Article 17](#) and [Article 18](#) do not apply to a lot or parcel of land established by deed or plat recorded among the land records of the county prior to the date that DeKalb County subdivision regulations first became effective³⁴ or to the division or sale of land by judicial decree.
- 16-13.30-B.** For purposes of this article, the division of land into no more than 2 lots is considered a subdivision but exempt from the plat review procedures, provided that:
 1. Each proposed lot complies with the requirements of the city zoning ordinance and all conditions of zoning;
 2. Each proposed lot fronts an existing paved private or public street, which contains the necessary right-of-way width required by this chapter;
 3. All such plats are drawn to final plat standards in this chapter; and

³⁴ This should be replaced with an actual date.

4. The lot being divided is not a lot which resulted from a subdivision of property that was exempt from these regulations in the immediately preceding 24 months.

16-13.40 Administration and Enforcement

16-13.40-A. Administration

It is the duty of the community development director to enforce this chapter.

16-13.40-B. Violations and Penalties

Any person violating any of the provisions of these regulations is deemed guilty of an offense and upon conviction in municipal court may be punished as is provided in section 1-6 of the municipal code. Each violation of these regulations is a separate offense. The owner of any structure, buildings, lots or parcels or parts thereof, where anything in violation of these regulations exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, is guilty of a separate offense.

16-13.40-C. Enforcement

Appropriate actions and proceedings, including the issuance of stop work orders and actions in a court of law, may be taken by the city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies are in addition to the penalties described in Sec. [16-13.40-B](#).

16-13.40-D. Development Permits, Building Permits and Certificates of Occupancy

No development permit, building permit, or certificate of occupancy may be issued for a lot or plat subdivided or sold in violation of the provisions of these regulations, nor does the city have any obligation to extend services to any parcel created in violation of these regulations.

Article 14 Minor Subdivision Procedure³⁵

16-14.10 Applicability

Proposed subdivisions are eligible to be reviewed under the minor subdivision procedures of this article only when all of the criteria are met:

16-14.10-A. The subdivision will result in the creation of no more than 3 lots;

16-14.10-B. The subdivision does not require the extension of utilities (other than individual service lines) or other municipal facilities;

16-14.10-C. No right-of-way dedication is required; and

16-14.10-D. No new streets or street improvements are required.

16-14.20 One-Step Procedure

Subdivisions eligible for processing as minor subdivisions require only review, approval and recording of a final plat in accordance with Sec. 16-15.20.

16-14.30 Compliance with Subdivision Design and Improvement Standards

Subdivisions eligible for processing as minor subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in Article 16 and Article 17.

16-14.40 Successive Applications

A lot created through the minor subdivision procedures may not subsequently be re-subdivided pursuant to the minor subdivision procedures for a period of 2 years, measured from the date of recordation of the final plat. Any re-subdivision before the end of such 2-year period requires review and approval pursuant to the major subdivision procedures of Article 15.

³⁵ This is new—based on the approach used in Sandy Springs. We considered adding a subdivision exemption plat procedure as well, but determined that it was probably unnecessary to have both a minor and exempt subdivision approval procedure.

Article 15 Major Subdivision Procedure

16-15.10 Sketch Plat/Preliminary Plat

16-15.10-A. Preapplication Conference

Before filing the sketch plat for a subdivision for review and approval, the applicant must meet with the community development director or his designee to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing [infrastructure and services, including schools](#). The community development director may advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

16-15.10-B. Application and Sketch Plat Required

The owner of the land where the proposed development is to occur, or his authorized agent, must file a sketch plat with the department of community development along with an application for approval. The application must:

1. Be made on forms prepared by the department of community development;
2. Be accompanied by ~~minimum of 18-3~~ copies of the sketch plat, [plus one electronic/digital copy](#), which must be prepared by a registered civil engineer, surveyor, architect, or landscape architect, as described in these regulations and complying in all respects with these regulations;
3. Be accompanied by an application fee in the amount set by the city council; and
4. Include the name, address and telephone number of an agent who is authorized to receive all notices required by these regulations.

16-15.10-C. Plat Information

The following information must be shown on the sketch plat:

1. **Boundary Lines**
Perimeter boundary of the overall tract, bearings and distances, referencing the legal point of beginning;
2. **Streets on or Adjacent to Tract**
Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;

3. Contour Data

Topographic contour data at no more than 2-foot elevation intervals. The source of this data must be written on the plat. Existing contour data from the city geographic information system department may be used where available;

4. Tree Survey

A tree survey, in compliance with [Article 10](#), or tree sample calculations where allowed by the city arborist which may be submitted as a separate plan;

5. Historic Resources

Any building, structure, site or district identified as historic by the county historic preservation commission, the county historic resources survey, the city historic preservation commission, if one is established, the comprehensive plan, by listing on the Georgia or National Register of Historic Places, or by listing as a National Historic Landmark;

6. Natural Features on Tract

Other conditions on the tract such as stream buffers, state waters, cemeteries, wetlands, existing structures, [special flood hazard areas](#), ~~intermediate regional floodplain boundary~~ (where available), rock outcroppings, and archeological resources;

7. Soils

Location of soils as shown on Soil Survey of DeKalb County, Georgia, by the United States Department of Agriculture;

8. Geographical Data

Numerical and graphic scales, north arrow, land lot and district numbers and lines, city and county names and limit lines;

9. Prior Subdivisions

Name and reference of any formerly recorded subdivision crossing any of the land shown on the plat;

10. Zoning District

Show zoning district, case number and conditions of zoning;

11. Permits

Show any special administrative permit number, special land use permit number, or zoning board of appeals case number and conditions;

12. Variances

Show any administrative variance approvals;

13. Septic Tanks

Show existing septic tank and drain field location or note absence;

14. Sewers

Show size and location of sanitary sewer mains available;

15. Sewer Easements

Show a sanitary sewer easement with a minimum width of 15 feet for lines not within county public rights-of-way, unless otherwise required by the county water and sewer department;

16. Water Mains

Show size and location of water mains and fire hydrants;

17. Water Main Easements

Show a water main easement with a minimum width of 15 feet for county maintained lines not within right-of-way, unless otherwise required by the county water and sewer department;

18. Fire Hydrants

Show new fire hydrants and 8-inch fire lines;

~~**IRF**~~

~~Show on plan whether FEMA, city or county benchmark used to establish IRF also identify location of benchmark;~~

19. Wetlands

Provide wetlands determination from U.S. Army Corps of Engineers;

20. Receiving Waters

Provide distance to and name of receiving waters;

21. Certificate of Conformity

Certification by the applicant that no lots platted are non-conforming or will result in any non-conforming lots;

22. Bury Pits

Show location of any existing inert waste bury pits;

23. Seal

All sheets of plats must be sealed by a professional engineer, architect, surveyor, or landscape architect currently registered in the state.

24. Title

The title under which the proposed subdivision is to be recorded, if known, with the name of the property owners and designers and the date of the plat;

25. Street Names

The names of all proposed streets;

26. Rights-of-way

Street rights-of-way and widths indicated, including any necessary right-of-way required for improvements as shown on the comprehensive transportation plan;

27. Sidewalks

All proposed sidewalk and bike lane locations;

28. Lots

Lot lines, lot numbers, block letters, and the total number of proposed lots within the development;

29. Dedications

Sites, if any, to be dedicated or reserved for common areas, public parks, open space, schools, playgrounds, multi-use trails, or other public uses, together with the purpose and the conditions or limitations of these dedications, if any;

30. Yards

Minimum building setback lines as required under the yard requirements of the zoning ordinance;

31. Zoning conditions

All conditions of zoning and proposed deed restrictions must be recited on the sketch plat;

32. Corner lots

Show that corner lots must have an extra width of not less than 15 feet more than required for interior lots for the zoning district within which they are located;

33. Transitional buffers

Show transitional buffers, if any, and any required screening fencing;

34. BMPs

Show conceptual location of stormwater management and water quality BMP facilities on sketch plat;

IRF

~~Show proposed IRF contour, spot elevation (if available) and source;~~

35. Covenants

Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;

~~Sewer Easements~~

~~Show a sanitary sewer easement with a minimum width of 15 feet for all city or county maintained lines not within city or county right of way;~~

~~Water Main Easements~~

~~Show a water main easement with a minimum width of 15 feet for all city or county maintained lines not within right of way of city or county;~~

36. Fencing

Show any required fencing around detention ponds, if required; and

37. Electrical Service

Show ~~whether electrical service will be above ground or underground~~the location of electrical service.

16-15.10-D. Additional Information

The following additional information must be submitted with the sketch plat:

1. Owner Consent

The property owner must consent in writing to the proposed development in a consent affidavit provided by the community development director with the application;

2. Taxes

Provide statement from the county tax commissioner certifying that all ad valorem taxes on the property have been paid;

3. Location

A small map of the city depicting the subdivision location within the city;

4. Vicinity Map

Vicinity map at a scale of 400 feet to one inch showing the location of the tract with reference to surrounding properties, streets, municipal boundaries, and streams within 500 feet of the tract, and showing zoning districts of adjoining property;

5. Adjacent Properties

Names of adjoining property owners and the zoning classification of adjacent properties; and

6. Engineer

Name, address and phone of developer and engineer on plat.

16-15.10-E. Scale

Sketch plats must be prepared at an appropriate scale of not more than 100 feet to one inch. Maximum sheet size may not exceed 24 inches by 36 inches, with a minimum text size of 0.08 inches.

16-15.10-F. Application Submittal

1. The community development director must give written notice to the applicant within 7 days of the date the sketch plat and application are submitted whether

the sketch plat application is accepted for review and the official date of acceptance. An application will be considered complete and ready for processing only when it fully complies with the requirements of Sec. [16-15.10-B](#) through Sec. [16-15.10-E](#).

2. If the application and sketch plat are not accepted, the community development director must inform the applicant of the deficiencies and request the applicant to resubmit the application and sketch plat with the additional information.

16-15.10-G. Referral of Sketch Plat for Review

1. Upon official acceptance of the application and the sketch plat, the community development director must provide copies of the sketch plat to the community development department, public works, police department, and any other city department the community development director determines should be consulted for the particularities of the proposed subdivision. Each such department and receiving entity must review the sketch plat and must make comments and recommendations regarding any required changes necessary to comply with all applicable regulations. Each department must return its annotated copy of the sketch plat and written comments and recommendations to the community development director within 14 days from the date of receipt.
2. Once the community development director has received each department's comments and recommendations, the community development director must either notify the applicant that the sketch plat has been approved or notify the applicant that revisions to the sketch plat are required.
3. In the event that any revisions to the sketch plat are required, the applicant may submit a revised sketch plat to the community development director and, if the applicant submits a revised sketch plat, the community development director has 14 days to review the revisions and determine whether such revisions are sufficient for approval. If the revisions are insufficient, the community development director must notify the applicant that further revisions to the sketch plat are required and for each set of revisions submitted by the applicant the community development director has 14 days for review as described in this section.
4. If a sketch plat is not approved within 180 days of the official acceptance of the application, the application and sketch plat is considered withdrawn without further action by the city. The community development director must approve the sketch plat if the application and sketch plat conform to all requested revisions, the requirements of this Code and state law and must deny the sketch plat if the application and sketch plat do not conform to all requested revisions, the requirements of this Code or state law.

16-15.10-H. Public Notice

1. [The applicant must place a public notification sign on the site of the proposed subdivision within 7 days](#) ~~When the sketch plat has been of the date that the~~

~~sketch plan is submitted~~determined to be complete and accepted for processing, ~~the applicant must place a public notification sign on the site of the proposed subdivision within 7 days of submittal for 30 days. The sign must remain in place of at least 30 days. At the same time as the sign is posted, the applicant must also place in a box, on site of the proposed subdivision, in a place which is accessible to the public, at least 50 (11 inch by 17 inch copies) of the proposed sketch plat.~~The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the sketch plat may not be approved until the applicant has properly posted the required notification sign ~~and made copies of the plat available to the public in a box on the site in accordance with requirements set forth in this Code.~~

2. Once the application has been submitted, the applicant and members of the public may submit written comments to the community development director in support of or in opposition to the sketch plat.
3. The community development director may approve or disapprove the proposed sketch plat in accordance with the approval criteria of Sec. [16-15.10-l](#).
4. Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.

16-15.10-l. Approval Criteria

1. The community development director may not approve a sketch plat unless it is found that:
 - a. Provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality for purposes of health, emergency, and adequate fire protection for the subdivision proposed;
 - b. If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
 - c. Adequate areas have been allocated within a subdivision to meet the regulations in this chapter for the long-term collection, management, and treatment of stormwater;
 - d. The proposed subdivision is designed to ~~avoid-protect areas of~~floodplains, watercourses, wetlands, exceptional or specimen trees ~~or-and~~ woodlands;
 - e. No platting of lots within the subdivision will create any non-conforming lots or increase the non-conformity of existing non-conforming lots on property within or adjacent to the subdivision;

- f. If the subdivision abuts a state highway, all applicable statutory provisions are followed, including the rules of state department of transportation;
 - g. The proposed subdivision meets all the requirements of this chapter, the city zoning ordinance, the comprehensive plan, the comprehensive transportation plan ~~map~~, and all other standards and regulations adopted by all boards, commissions, agencies, and officials of the city and all other applicable laws from other relevant jurisdictions;
 - h. A properly issued certificate of appropriateness, when the subdivision or portions thereof lie within a designated historic area that required such a certificate as may be required by state law or this Code;
 - i. Lot lines have been laid out so as to minimize crossing municipal or county boundaries; and
 - j. All requirements of Sec. [16-15.10-C](#) have been fulfilled.
2. The community development director may require the applicant to submit a site plan for any lot to demonstrate that the lot contains adequate buildable area that is suitable for the intended use.
3. After review of the sketch plat and related comments, and where, in the judgment of the community development director, the sketch plat conforms to all of the requirements of this chapter and the city zoning ordinance, all conditions of zoning, and any other applicable city regulations or law, the community development director must approve the sketch plat. The following wording for approval must be shown on the sketch plat:
- "This sketch plat has been submitted to and approved by the City of Dunwoody, on this _____ day of _____, _____.
- By: _____ (By Dir.)
- Community Development Director, City of Dunwoody, Georgia"
4. A sketch plat becomes and will be known as a "preliminary plat" upon its approval by the community development director.

16-15.10-J. Effect of Approval

The preliminary plat does not constitute nor provide assurance of approval of the final plat, but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in the city zoning ordinance. The preliminary plat must be submitted to the community development department in a digital format acceptable to the city, prior to or simultaneous with an application for a development permit.

16-15.10-K. Lapse of Approval

The preliminary plat expires 24 months from the date of its approval. If more than 50% of linear feet of total road in the entire development shown on the preliminary plat is complete at the expiration of 24 months from the date of the approval of the

preliminary plat, then the community development director is authorized to grant a one-time, one-year extension of the approval of the preliminary plat. An expired preliminary plat is null and void and is of no effect. An expired preliminary plat may not be renewed.

16-15.10-L. Preliminary Plat Amendments

If the approved sketch plat, which becomes the preliminary plat, is amended or altered by the applicant, without an approved variance, after approval as a sketch plat, then the applicant is required to re-submit the revised preliminary plat as a new sketch plat and begin anew the application process contained in this article.

16-15.20 Final Plats

16-15.20-A. Preparation

The applicant must have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete to ascertain its location as built.

16-15.20-B. Application Filing

The final plat and a fee in the amount established by the city council must be filed with the city. The final plat and as-built drawings must also be submitted in a digital format acceptable to the city.

16-15.20-C. Plat Review

1. Upon receipt of the final plat, the community development director must forward copies of the final plat to the following city departments for certification that the improvements are complete and in conformity with the preliminary plat:
 - a. Appropriate official of the department of community development;
 - b. County/City geographic information system department;
 - c. Police and fire department;
 - d. Public works department;
 - e. Any other department or entity the community development director deems appropriate.
2. Any department to which the final plat is submitted must note on the plat whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department must note on the plat the manner in which the plat fails to meet these requirements. Each department

must return its copy of the final plat with notations made within 21 calendar days of receipt thereof.

3. Upon receipt of the annotated copies from all of the departments which received the final plat for notation, the community development director must independently review the final plat and determine whether it complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws. The community development director must certify in writing on the final plat his finding of whether the final plat complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.
4. The final plat must conform to the approved preliminary plat on file with the city and must comply with the city zoning ordinance, including any conditions of zoning.
5. The final plat may not be forwarded to the city manager until such time as the community development director certifies that the final plat conforms to the approved preliminary plat and complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.

16-15.20-D. City Manager Approval

1. No later than 14 calendar days after receiving the annotated copies from all of the departments which received the final plat for notation, the community development director must transmit the final plat, containing the certifications required in Sec. [16-15.20-C.1](#) and any necessary supplemental materials to the city manager for approval.
2. The city manager as the designee for the governing authority of the city must approve or disapprove the final plat within 10 days of receiving the final plat, as indicated by a receipt stamp on the final plat. If the final plat is not approved or denied within 10 days of receipt, the final plat is deemed to be automatically approved and the city manager must acknowledge and certify that automatic approval. If the final plat is denied, the city manager must provide the reasons for denial in writing and such writing must be given to the applicant with the denied plat. If the final plat is approved, the city manager must place the following wording on the original as follows:

"This plat has been submitted to and accepted by the City Manager of the City of Dunwoody, Georgia, and has been approved as required by State law and City codes as meeting all conditions precedent to recording in the county superior court.

Dated this _____ day of _____, _____.

By: _____/_____/_____

[City Manager as designee of the governing authority]"

3. Final plat acknowledgement and approval by the city manager constitute the approval, if any, required in order to file subdivision plats with the clerk of the county superior court pursuant to O.C.G.A. §15-6-67(d).

16-15.20-E. Appeals

The decision of the city manager to approve or disapprove the final plat may be appealed to the city council by request in writing to the city manager within 30 days of the city manager's decision. If no appeal is made within the 30-day period, the decision of the city manager is final. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.

16-15.20-F. Recording

The approved final plat must be recorded with the clerk of the county superior court by the community development director and returned to the applicant.

16-15.20-G. Dedications

The filing and recording of the final plat by the community development director will, upon completion of the improvements by the applicant and compliance with all procedures of this chapter, be deemed an acceptance of the dedication of the streets and other public land as shown upon the plat on behalf of the public.

16-15.20-H. Material Specifications

The final plat must be composed of Mylar, or other durable, stable, and reproducible drafting medium approved by the community development director and must meet all provisions of the Georgia Plat Act, O.C.G.A. §15-6-67.

16-15.20-I. Scale

Final plats must be prepared at a scale of not more than 100 feet to one inch and must have a maximum sheet size of not more than 24 inches in width and 36 inches in length, and a minimum sheet size of not less than 17 inches in width and 21 inches in length.

16-15.20-J. Compliance with Zoning Ordinance

The final plat must comply with the requirements of the city zoning ordinance and all conditions of zoning for the subject property to be shown in the upper right corner of the final plat with text height at a minimum of ~~0.18-0.08 inches for 24-inch by 36-inch sheet size and 0.09 inch for 17-inch by 21-inch sheet size.~~ 0.18-0.08 inches

16-15.20-K. Required Information

The final plat must show the following:

1. Sufficient data to determine readily and reproduce on the ground the location, bearings and lengths of every right-of-way, street line, lot line, boundary line and building line, whether curved or straight;

2. Tract boundary lines, land lot and district lines, city and county limit lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;
3. All dimensions must be accurate to the nearest one hundredth of a foot and all angles accurate to the nearest second;
4. Name and right-of-way width of each street including necessary right-of-way required by the city's plans, policies, codes, and requirements ~~for present or future widening of major, minor, collector, residential or other streets as shown on the comprehensive transportation plan;~~
5. Sidewalk and bike path locations and width;
6. House numbers: numbers will be assigned by the city geographic information system department and placed on the final plat;
7. Title, north arrow, date, scale, land lot numbers and district numbers;
8. Location, dimensions and purpose of easements and areas to be dedicated to public use, common areas or sites for other than residential use with notices stating their purpose and limitations;
9. ~~Intermediate regional floodplain~~ Special flood hazard area contour line and set-back line required by this chapter, state waters/state streams, wetlands, and required stream buffers;
10. Water and sewer utility locations, and the location and type of permanent stormwater management facilities and water quality facilities;
11. Lots numbered in numerical order and blocks lettered alphabetically; all lot and block numerals must be kept in a uniform sequence on all plats and units of the subdivision;
12. Accurate location, material and description of monuments and markers; within each subdivision set one monument on 2 front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument must be a minimum 4-inch diameter disk by 24-inch high concrete monument with brass caps set flush with finished grade; and
13. Lots that may not be built upon until detailed plans for grading and drainage have been approved by the community development director.

16-15.20-L. Space for Comments, Certifications

A blank space of 50 square inches must be provided on the final plat to allow room for any stamps, notes, approval or denials as required to be placed thereon by city agencies and for the certification of the community development director and approval or denial by the city manager.

16-15.20-M. Surveyor's and Owner's Acknowledgments

The acknowledgements of the surveyor and property owner must be provided and certified on the final plat in a form approved by the city.

The following wording for the engineer's [surveyor's] and owner's acknowledgments must be shown and certified on the final plat:

1. Surveyor's Acknowledgment

"In my opinion, this plat, drawn by me or under my supervision, was made from an actual survey, and is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.

_____ R.L.S. No. _____."

2. Owner's Acknowledgment

"I, _____, the owner of the land shown on this plat and whose name is subscribed hereto, acknowledges that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, do hereby convey all streets and rights of way, water mains and sewer lines shown hereon in fee simple to the City of Dunwoody, and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, the owner further releases and holds harmless the City of Dunwoody from any and all claims, damages or demands arising on account of the design, construction and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross drains, culverts, water mains, sewer lines, and bridges within the proposed rights of way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

"And further the owner warrants that he owns fee simple title to the property shown hereon and agrees that the City of Dunwoody is not liable to him, his heirs, successors or assigns for any claims or damages resulting from the construction or maintenance of cross drain extensions, drives, structures, streets, culverts, curbs or sidewalks, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind myself and owners subsequent in title to defend by virtue of these present.

"All single family residential lots on this plat are included in a special taxing district for funding the maintenance of stormwater detention facilities required because of this development. [Note: This paragraph is only required in single family residential subdivisions.]

"All roads have been properly designed and dedicated to accommodate any required parking in the right of way.

~~"In witness whereof, I have hereunto set my hand this _____ day of _____,~~

~~(SEAL)~~

~~(Owner) _____~~

~~Witness: _____~~

~~Notary Public."~~

16-15.20-N. Protective Covenants

The final plat may not contain protective covenants stipulating lower standards than the minimum restrictions required by the city zoning ordinance.

16-15.20-O. Disclosure Statement

1. Before any final plat for any residential subdivision and any multiphase residential development may be submitted for review by the city, a disclosure statement, sworn to by the applicant under penalty of perjury before a notary public or other officer authorized to administer oaths, must be filed with the community development director. The disclosure statement must be in a form promulgated by the community development director and approved by the city attorney.
2. Any applicant for the final plat, intending to make written or oral representations to potential purchasers of homes in any residential subdivision and any multiphase residential development must submit the information specified herein on the disclosure statement which must be made available to members of the public by the community development director:
 - a. An estimated date of completion of the entire residential subdivision;
 - b. A statement of the average size of homes to be constructed in the subdivision, any specified style of architecture, landscaping, the type of construction materials to be used (i.e., brick, stone, stucco, pressboard, etc.) and the average size of lots;
 - c. A statement of the applicant's commitment to build any community amenities within the subdivision, including, but not limited to, a clubhouse, tennis courts or swimming pool;
 - d. A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the residential subdivision;
 - e. Copies of all forms of conveyance to be used in selling lots to potential purchasers;
 - f. A statement of all deed restrictions, easements and covenants applicable to the residential subdivision;
 - g. Copies of instruments creating any deed restrictions, easements and covenants applicable to the residential subdivision;

director until such time as the community development director approves the applicant's disclosure statement.

7. If at any time after approval of the disclosure statement the community development director becomes aware that the disclosure statement contains false or misleading information, or that the applicant is developing in a manner inconsistent with the approved disclosure statement, the community development director must disapprove the disclosure statement and notify the applicant in writing that the disclosure statement has been disapproved.
8. Subsequent to the recording of the final plat for a residential subdivision and for each phase of a multiphase residential development, the approved disclosure statement on file with the city must be provided by any seller to potential purchasers at the execution of the purchase and sales contract or, if no such contract is executed, 10 days prior to the real estate closing on any property governed by this section.

16-15.20-P. Violations

It is unlawful for any person to sell property in a residential subdivision or a multiphase residential development without providing a potential purchaser with a copy of an approved disclosure statement as required by Sec. [16-15.20-O](#). It is unlawful for any person to provide the community development director with false or misleading information in an approved disclosure statement as required by Sec. 16-15.20-O. It is unlawful for any person to develop in a manner inconsistent with the approved disclosure statement. Any person convicted of violating this section is subject to fine and/or imprisonment in accordance with section 1-6.

16-15.20-Q. Revised Final Plat (Plat Amendments)

1. The original recorded plat must be used for all revisions.
 - a. When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant must confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor must make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording must be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat must be considered a major change.
 - b. A minor change is one that corrects a drafting or scrivener's error or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, changing or moving lot lines, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.

- c. If the community development director determines the change is minor, then the community development director will obtain the city manager's acknowledgment, approval, and acceptance of the revised final plat, and must file such revised plat with the clerk of the county superior court.
 - d. If the community development director determines the change is major, the revised plat must proceed through the approval process for final plats described in this Code.
 - e. The basis for the community development director's characterization of the change as either major or minor must be recorded on the revised plat.
2. If the original final plat is not available, the applicant must prepare a new Mylar or other durable, stable, and reproducible drafting medium approved by the department of community development, in accordance with this section [16-15.20-Q](#).
3. Revisions and a notation explaining the revisions must be shown in black ink on the revised plat.
4. A blank space consisting of not less than 50 square inches must be provided on the revised plat to accommodate required certifications.
5. Revised plats must be prepared at a scale of not less than 50 feet to one inch.
6. The revised plat must comply with the regulations of the city zoning ordinance, including all conditions of zoning, which are to be shown in the upper right hand corner of the revised plat.
7. The revised plat must show the following wording in black ink:

"This revised plat has been submitted to the city manager of the City of Dunwoody, Georgia, and has been approved as required by state law and municipal codes as meeting all conditions precedent to recording in the county superior court. This plat is hereby approved subject to any protective covenants shown hereon.

Dated this _____ day of _____, _____

City Manager City of Dunwoody, Georgia"

8. All revisions to original plats must be bound by the protective covenants on the original final plat and a statement to that effect must be noted in black ink on the revised plat unless noted otherwise.
 9. Other data which may be required in support of a revised final plat are: a final engineering design report on proposed revisions and such other certificates, affidavits, endorsements, or dedications as may be required by city officials in the enforcement of this chapter.

Article 16 Subdivision Design

16-16.10 General

16-16.10-A. Adequate Public Facilities

The applicant must submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

1. Comprehensive Plan Consistency

Proposed public improvements must conform to and be properly related to the city comprehensive plan and all applicable capital improvement plans.

2. Water

All habitable buildings and buildable lots must be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.

3. Wastewater

All habitable buildings and buildable lots must be served by an approved means of wastewater collection and treatment.

4. Stormwater Management

Drainage improvements must accommodate potential runoff from the entire upstream drainage area and must be designed to prevent increases in downstream flooding as required under article II, division 6 of this chapter. Stormwater quality management facilities must be adequate as required by article II, division 6 of this chapter. The city may require the use of control methods such as retention or detention, and or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.

5. Streets

Proposed streets must provide a safe, convenient, and functional system for all lawful modes of transportation~~vehicular, pedestrian, and bicycle circulation~~, must be properly related to the comprehensive plan, and must be appropriate for the particular traffic characteristics of each proposed development. The community development director is authorized to require submittal of traffic impact study at the time of application for any development that will generate additional motor vehicle trips to or from the subject site during a 24-hour period or during the peak traffic hour, based on trip generation rates obtained from the most recent editions of *Trip Generation* and *Trip Generation Handbook*, published by the Institute of Transportation Engineers (ITE). Only “new” vehicle trips will be counted; no pass-by or internal trip capture will be used in calculating “added vehicle trips.” Traffic impact studies must be prepared by a professional transportation planner or traffic engineer.

6. Extension Policies

All public improvements and required easements must be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines must be constructed through new development to promote the logical extension of public infrastructure.

16-16.10-B. Natural Resources

1. To better implement the policies and purposes of this chapter, to protect the health, safety, and welfare of the citizens of the city and to minimize the negative environmental effects of development, subdivisions must be designed and developed to avoid areas of environmental sensitivity. The following land areas must be preserved in their natural state ~~or~~ and not subjected ed to any development or land disturbance activity, and may not be part of the buildable area:
 - a. Wetlands; and
 - b. ~~The intermediate regional floodplain~~ Special flood hazard areas.
2. Subdivisions must be also laid out to:
 - a. Avoid adversely affecting watercourses, ground water, and aquifer recharge;
 - b. Minimize cut and fill;
 - c. Minimize impervious cover and the environmental impacts of roads and access points;
 - d. Minimize flooding; and
 - e. Minimize adverse effects of noise, odor, traffic, drainage, and utilities on neighboring properties.
3. The community development director may not recommend approval for a sketch plat or parts thereof if the community development director determines that:
 - a. The areas listed §16-16.10-B.1 have not been set aside and protected from development;
 - b. The proposed subdivision does not comply with the requirements of §16-16.10-B.2; or
 - c. If the proposed subdivision is not in the best interest of the public health, safety, and general welfare of the city.

16-16.20 Streets

16-16.20-A. Applicability

The provisions of this section apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from the city.

16-16.20-B. Arrangement

1. The arrangement, character, extent, width, grade and location of all subdivision streets must conform to the provisions of this chapter and to the comprehensive transportation plan. New streets must be designed and located with consideration of their relation to existing and planned streets, to topographical conditions, to public convenience and safety in their appropriate relation to the proposed uses of the land to be served by the streets.
2. Where not shown in the comprehensive transportation plan, the arrangement of streets in a subdivision must either:
 - a. Provide for the continuation or appropriate projection of existing streets in surrounding areas; or
 - b. Conform to a plan for a neighborhood approved or adopted by the city council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
3. Local residential streets must be designed to discourage speeding and provide a safe environment for nonmotorized transportation. ~~They must be designed to discourage high speed through traffic by the use of traffic calming devices.~~
4. Within historic districts, the platting of lots and streets must be compatible with the historic patterns that exist within the historic district except for numbered state or federal routes.

16-16.20-C. Comprehensive Transportation Plan Review

The community development director and the public works director must review changes in the patterns of traffic, land development, and subdivisions, and prepare a report to the city council with recommendations concerning appropriate revisions to the comprehensive transportation plan. Such review must:

1. Ensure safe and efficient access between neighborhoods and local services;
2. Ensure the continuity and adequacy of local streets, collector streets and arterial streets to form a coherent and continuous system of routes;
3. Identify applications of appropriate traffic calming and traffic management strategies to discourage unnecessary traffic and travel speeds in neighborhoods; and
4. Ensure a coherent and continuous system for ~~pedestrian and bicycle~~ nonmotorized travel.

16-16.20-D. Subdivisions Bordering Major Streets or Railroad Rights-of-way

Where a subdivision borders on or contains an arterial or collector street ~~(major thoroughfares, and minor thoroughfares)~~, a railroad right-of-way or limited-access highway right-of-way, the community development director may impose reasonable limits or conditions on the number, type, location and design of driveway access points, including but not limited to ~~require~~ the following:

1. Rear service alleys to facilitate traffic flow, safety and public services;
2. Provision of one or a pair of smaller marginal access streets approximately parallel to and on each side of this right-of-way at a distance suitable for the appropriate use of the intervening land as park or open space and to provide for multipurpose trails. These distances must also be determined with due regard for the requirements of approach grades and future grade separations; or
3. In the case of limited-access highways only, reverse frontage lots may be created with landscape buffers and a non-access reserve strip along the rear property line.

16-16.20-E. Reserve Strips

Reserve strips that separate developed or undeveloped land from necessary access to streets are prohibited except when such access is controlled by the city.

16-16.20-F. Intersections

1. Spacing

Street intersections with centerline offsets of less than 125 feet are prohibited.

2. General Design

Street intersections in subdivisions must be as nearly at right angles as practicable. No interior angle may be less than 75 degrees. Intersections ~~or of~~ more than 2 streets must be designed in accordance with city standards and specifications.

3. Radius

Right-of-way lines at intersections must be rounded by a tangential arc that is concentric with the paved radii lines. At each street intersection in a subdivision the property line at each block corner must either be mitered or rounded. A mitered property line must be located on the interior chord of a convex curve or located 15 feet inside the tangent of a concave curve. A rounded property line must be established with a curve of radius R varying with the interior angle as specified in the following table, unless sufficient data is presented to show that strict adherence to this requirement is impractical due to topographical or engineering considerations.

Interior Angle (degrees)	R	R
150–145	12	15
145–140	12	18
140–135	12	20
135–85	12	25
85–75	20	40
75–65	30	70
65–55	40	80
55–45	50	100
45–0	75	140

4. Grade at intersections must have tangent of no greater than 2%

16-16.20-G. Street Frontage

Each building must be located on a lot or parcel that abuts a public street or private street.

16-16.20-H. Private Streets

1. Private streets are allowed only if the development seeking to have a private streets is 10 acres or larger in area. The zoning board of appeals is authorized to waive this minimum acreage requirement if all real property owners that abut the proposed private street agree to such waiver.
2. Where this chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations and supplemental regulations of the city zoning ordinance, in this chapter or elsewhere in this Code apply similarly for property abutting a private street where such private street has been approved by the zoning board of appeals. Nothing in this section is intended to authorize any kind of development on a private street that would not be authorized where there was public right-of-way.
3. Private streets within any zoning district may not be used to satisfy the off-street parking requirements of this Code. Private streets within any district must be assigned names and locations. The names of these streets must be shown on plans required for the issuance of building and development permits as provided in this chapter, chapter 8, and the city zoning ordinance. The city geographic information services department must approve all private street names and addresses to avoid conflicting names and addresses.
4. Where sanitary or storm sewer lines are constructed underneath a private street, the developer is required to grant an easement to the city applicable utility authority for their installation, maintenance and repair ~~of such sewer lines.~~ In the case of private streets, the city is authorized to assign responsibility for maintenance of storm sewers to a property owners association.
5. Private streets are not eligible for participation in the city's residential sidewalk district program as provided for in this Code.
6. Developers and property owners' associations must ensure access to all private streets by emergency and law enforcement vehicles and must ensure that private streets are constructed to allow access by all emergency vehicles and law enforcement vehicles.
7. The use of private streets may not result in an increase in permitted density above that which would otherwise be permitted by the applicable district regulations. Density calculations must be made based on a public street system and the preliminary plat that provides for a private street must be density neutral. Additionally, a utility easement is not to be included in any plat as a part of an individual lot and thus such land that comprises the utility easement cannot be used to calculate the required minimum lot size, or minimum front yard size.

8. Private streets must comply with requirements for public streets found in this chapter and all other applicable sections of this Code. Private streets must be surfaced with the same type of materials that are used by the city's department of public works for the surfacing and resurfacing of public streets or with materials that are as protective as those used by the city to surface and resurface streets so long as such alternative materials are approved by the director of public works.
9. The zoning board of appeals may authorize a private street where the department of community development has certified that the applicant has submitted all required documentation as set forth herein and where the zoning board of appeals finds that:
 - a. The location of the proposed private street will not adversely impact use of any existing surrounding public street;
 - b. The location of the proposed private street will not adversely impact adjacent existing communities or neighborhoods;
 - c. The applicant has shown that there is the requisite legal mechanism for the maintenance of the proposed private street; and
 - d. The applicant has provided written evidence that the proposed private street system is acceptable to the city departments or divisions responsible for law enforcement, sanitation, transportation and fire and rescue.
10. Private street rights-of-way must be owned by the mandatory homeowners' association as required by Sec. [16-16.20-H.11](#). Street rights-of-way must comply with all the requirements set forth in this Code, including, but not limited to, the requirements set forth in this chapter and in the city zoning ordinance. An access easement and a utility easement must entirely overlay the rights-of-way and must be dedicated to the city for public use. All applicable setbacks, lot widths and lot areas must be measured from the homeowner's association right-of-way.
11. Each developer that chooses to include private streets within a condominium, as that term is defined by state law, or any other residential, commercial, institutional, industrial or office development, must organize and establish a property owners' association prior to recording of the final plat. Membership in the property owners' association must be mandatory for each original and successive purchaser of a lot, building or unit within the development. The property owners' association must be organized so that it has clear legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. The declaration of covenants creating the property owners' association must be recorded with the clerk of the county superior court and the recorded declaration of covenants and articles of incorporation creating the property owners' association must provide that all private streets and associated

improvements are owned by the property owners' association or are held in common by the property owners within the development. The streets must be properly maintained and insured with no liability or maintenance responsibilities accruing to the city. The recorded declaration of covenants and articles of association must specifically require the property owners' association repair and maintain each private street in the same manner as similar public streets are maintained by the city and such maintenance and repair must be performed in compliance with all city standards and all applicable provisions of law.

- 12.** Prior to any final plat approval, the developer must submit articles of incorporation, declarations of covenants and bylaws for the property owners' association to the department of community development. Those documents must thereafter be reviewed and approved by the ~~city attorney~~community development director.
- 13.** The declaration of covenants and articles of association must provide for a street maintenance fund the proceeds of which may be used solely for the purpose of regular maintenance of the streets, whether for resurfacing or a similar purpose. For the purposes of providing further assurance that city funds may not be used for maintenance of private streets, the developer must submit proof of deposit of 50% of the current estimate of resurfacing costs, as determined by the community development director or his designee, in an interest bearing account on behalf of the property owners' association.
- 14.** At the end of the 12-month maintenance period provided for in Sec. 16-17.40-F, a developer must provide a maintenance bond renewable annually to cover the cost of maintenance and repair for any private streets within a subdivision. The bond must be for an amount equal to 50% of the current estimate of resurfacing costs, as determined by the community development director or his designee. The developer may avoid securing a maintenance bond if they submit proof to the department of community development that 100% of the then-current estimate of resurfacing costs, as determined by the community development director, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association must specifically require the property owners' association to continuously maintain 100% of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.
- 15.** The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in §16-16.20-H.11. At least 15% of all fees or assessments paid must be set aside in the maintenance fund. Any unpaid assessments will constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

16. Within 9 months following approval of the final plat, the city's community development director or his designee must inspect the private streets to ensure compliance with all city standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer must be notified of any deficiencies in writing and such deficiencies must be corrected within 60 days of the written notice of deficiencies unless the city agrees to extension of that period in writing.
17. Failure to correct the complete list of deficiencies constitutes a violation of this section and will subject the developer to prosecution for a code violation in the city municipal court. Any person found to have violated this section is subject to a fine of not less than \$500.00 for each violation. Each day that the violation exists is a separate and distinct offense.
18. The community development director or his designee must deny the issuance of certificates of occupancy until all deficiencies have been corrected.

16-16.20-I. Street Abandonment

1. Any abandonment of a public street by the city pursuant to this section must comply with the applicable requirements set forth in state law and this Code, including, but not limited to, the requirements set forth in O.C.G.A. §32-7-2(b) and §32-7-4 and as may hereinafter be amended.
2. A property owner may petition the city council to abandon an existing public street that abuts the owner's property. The petition must include documents that comply with all of the requirements set forth in this section.
3. The petition must contain evidence that each abutting landowner to the public street seeks to have the street abandoned.
4. The petition must contain evidence that once abandoned pursuant to the requirements of state law, all property owners that abut the street agree that ownership of the street must be placed in a property owners' association. The petition must include evidence that 100% of all property owners in the property owners' association have agreed that the street at issue may become private and have agreed to maintain and exercise control over the private street as required by this section.
5. The petition must contain evidence that the property owners' association has the financial ability to maintain the street and associated improvements in perpetuity.
6. The petition must include evidence that the declaration of covenants and articles of association or other legal instruments creating the property owners' association provide or have been amended to provide that membership in the property owners' association is mandatory for each original and successive purchaser of a lot, building or unit on the street.

7. The petition must include evidence that the property owners' association must be organized so that it has absolute legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses.
8. The petition must include evidence that the declaration of covenants creating the property owners' association must be recorded with the clerk of the county superior court and the recorded declaration of covenants and articles of incorporation creating the property owners' association must provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. The streets must be properly maintained and insured with no liability or maintenance responsibilities accruing to the city.
9. The petition must include evidence that the declaration of covenants and articles of association must provide for a maintenance fund, the proceeds of which may be used solely for the purpose of regular maintenance of the streets, whether for resurfacing or similar purpose. For the purposes of providing further assurances that city funds will not be required or used for maintenance of private streets, the property owners' association must submit proof of a maintenance fund equal to 50% of the current estimate of resurfacing costs, as determined by the community development director or his designee, in an interest bearing account on behalf of the property owners' association.
10. The petition must include evidence that the property owners have a maintenance bond renewable annually in an amount equal to 50% of the current estimate of resurfacing costs, as determined by the community development director or his designee.
11. The petition must include evidence that the property owners' association is empowered to levy assessments against owners on the streets for the payment of expenditures made by the association for maintenance of the private streets and improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses and evidence that any unpaid assessments constitute a lien in favor of the property owners' association on the lot, building, or unit of the owner. At least 15% of all fees or assessments paid must be set aside in the maintenance fund.
12. The city council may not consider a petition for abandonment unless it:
 - a. Contains all of the evidence and documents required by this ~~subdivision~~ section;
 - b. Is supported by an analysis by the department of public works that shows that the street is no longer used by the public to the extent that it serves no substantial public purpose and that the public at large will benefit from

its closure since the public will no longer be responsible for any costs to maintain and repair the street; and

- c. Is supported by an analysis by the department of community development that shows that the abandonment of the street does not negatively impact adjacent neighboring communities and the public at large.

16-16.20-J. Street ~~Classifications and Widths~~Cross-sections

Except as expressly stated in a city-adopted plan (e.g., Dunwoody Village) or within the city's standards and specifications, All streets must be classified according to the table in this section. All streets must be designed and constructed in accordance with the regulations of the following table on standards must be no less than as follows.³⁶

Type	Travel Lanes	Bike Lanes	Curb and Gutter	Shoulder [1]
Arterial and collector streets	11'	2 @ 4'	2 @ 2'	2 @ 13'
Local streets residential	12' 10'	0	2 @ 2'	2 @ 13'

[1] Shoulder width includes minimum 6-foot tree planting strip, minimum 5-foot sidewalk and space for underground utilities (cable TV, water, telephone, electric and natural gas).

³⁶ The intent is that PCID would also have separate standards. May need to further perfect the language to accomplish this.

Figure 16-1: Street Cross-section (typical), Principal Arterial

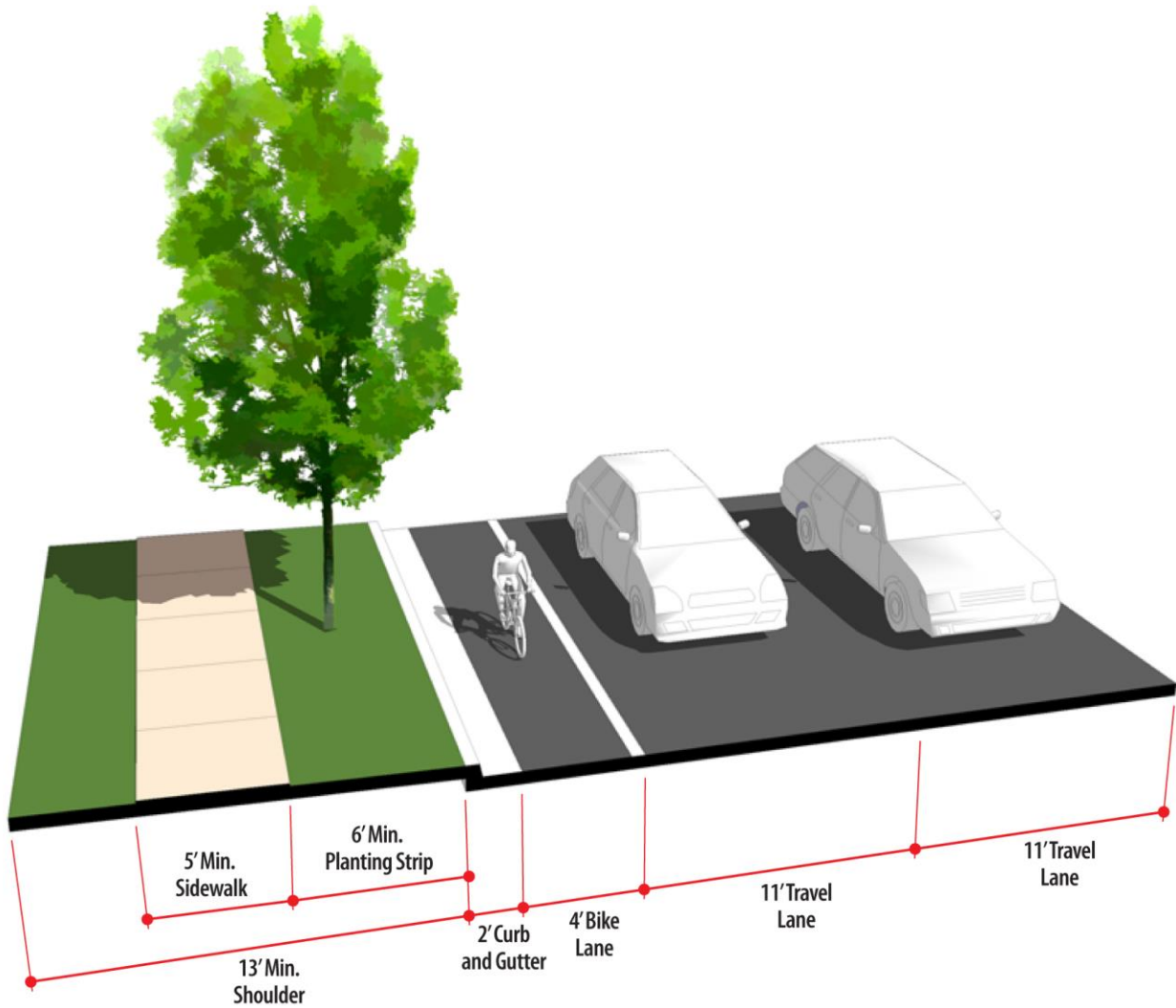


Figure 16-2: Street Cross-section (typical), Collector and Minor Arterial

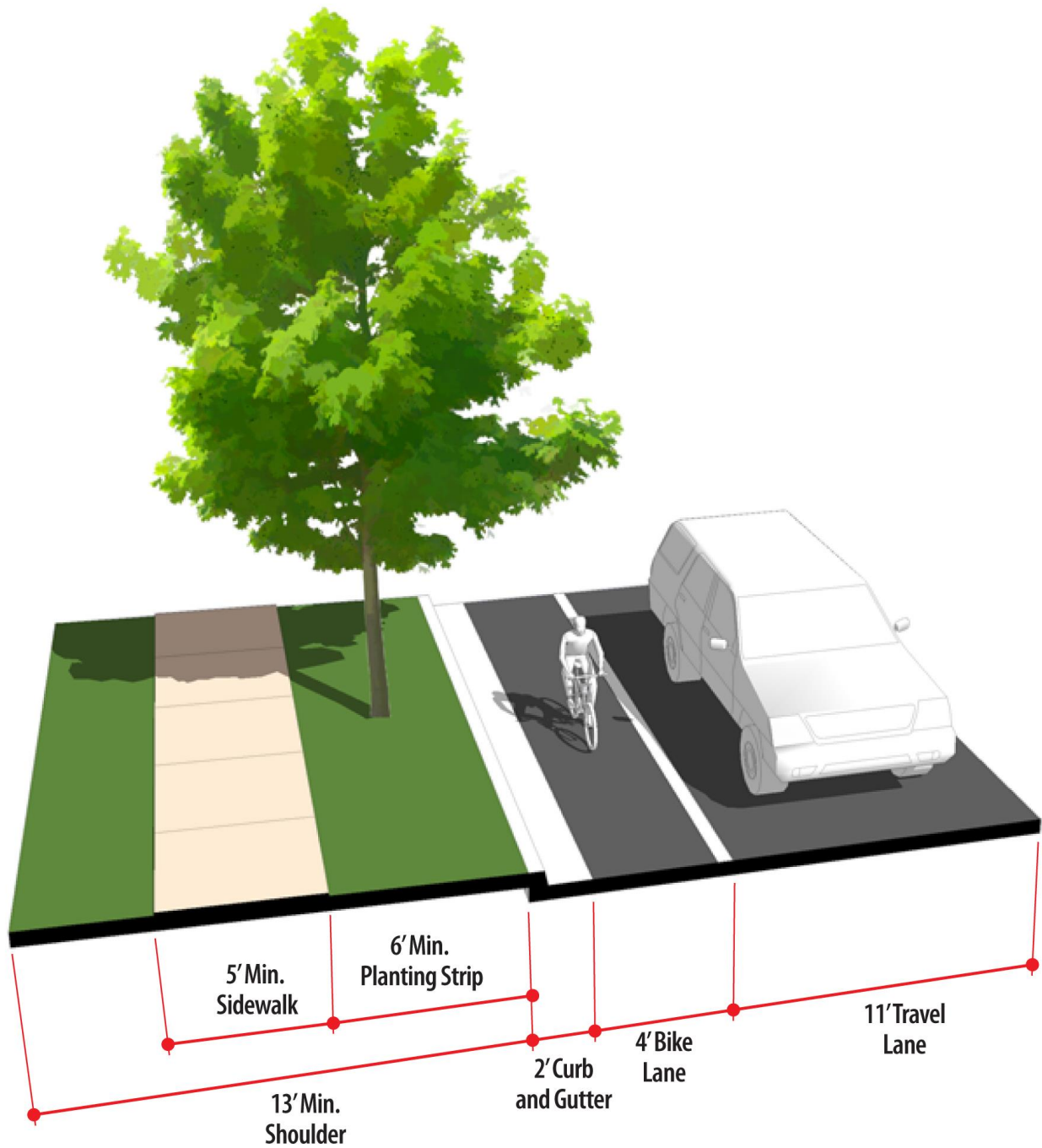
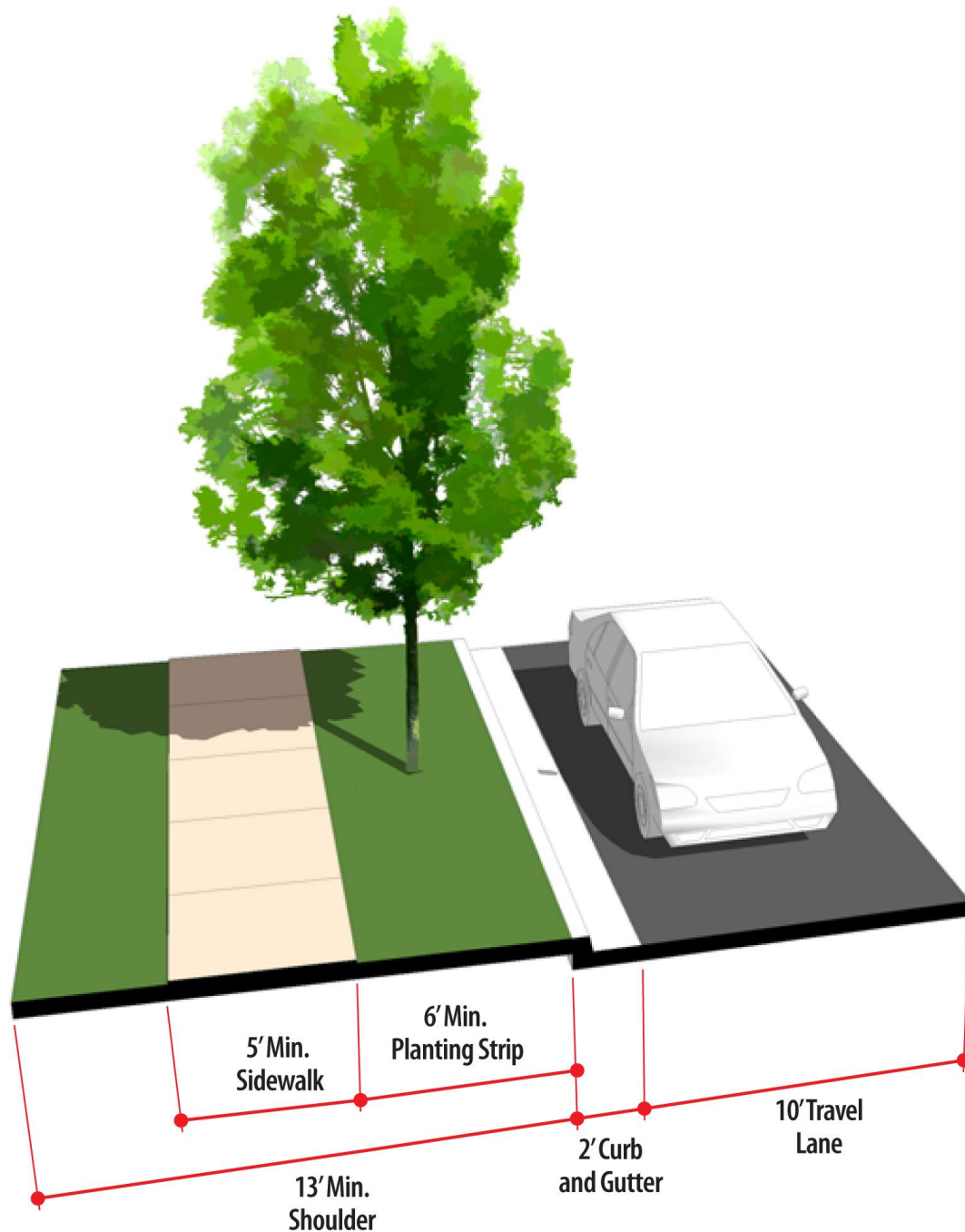


Figure 16-3: Street Cross-section (typical), Local Street



16-16.20-K. Right-of-Way and Street Improvements

1. All proposed new streets must be designed and built in accordance with the standards listed in Sec. [16-16.20-J](#) and the city's standards and specifications.
2. [Streets must have a minimum right-of-way width that complies with the comprehensive transportation plan and that will safely accommodate motorized and nonmotorized transportation improvements and street cross-sections needed](#)

to provide appropriate, safe and adequate access to the subject property, in accordance with the city's standards and specifications. Where a proposed subdivision or project requiring a land development permit has frontage on an existing public street, right-of-way must be dedicated ~~along that frontage so as to meet the standards of that street's classification in the comprehensive transportation city thoroughfare plan requirements of this section.~~ The right-of-way must be improved wherever required as further provided in this section. For existing streets on which a proposed subdivision or project requiring a land development permit has frontage, the applicant must:

- a. Dedicate a minimum of 50% of the required right-of-way width as measured from the centerline of the existing street right-of-way;
 - b. Install all required sidewalks, street trees, streetlights, and place utilities in accordance with the standards in Sec. 16-16.20-J; and
 - c. Provide a minimum of 50% of the roadway pavement required in Sec. 16-16.20-J and install it to the right-of-way centerline.
3. Land reserved for any road purposes may not be counted in satisfying yard or area requirements on the city zoning ordinance where the land is to be dedicated to the public in fee simple or an easement associated with the road is granted to the city.
4. Right-of-way dedication and road widening must extend for the full length of road frontage of the property under development and must conform to the standards in these regulations. Flares at pavement ends may be required to extend beyond property under development.
5. The city council, after considering all related factors, may authorize deviations from this section as follows:
 - a. Right-of-way dedication may be waived or modified if:
 - ~~(1) Existing use of property is not to be substantially changed as a result of proposed development or construction;~~
existing government ~~construction~~ plans for the roadway indicate lesser right-of-way would be required for dedication;~~or~~
 - ~~(2) The adjoining frontage is developed and the predominant existing right-of-way meets city standards.~~
 - b. Road improvements may be waived or modified if:
 - (1) Existing use of property not to be substantially changed (i.e., traffic generation and ingress/egress would remain the same);
 - (2) Governmental construction plans for the road indicate a pavement width less than city standards (only the planned pavement width is required);

~~No more than 5% of average daily traffic generation would occur between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m., on week days;~~

~~The existing road meets current county standards; or~~

- (3) Widening would create a hazard to motorized or nonmotorized traffic traffic, pedestrians, or bicyclists.
- c. The applicant may, with written concurrence of the community development director ~~and the city attorney~~, provide payment to the city in lieu of road improvements when:
 - (1) Road improvements by state or local action are scheduled within 24 months;
 - (2) Existing utility companies' improvements are situated so as to require their removal or relocation before road improvements should be accomplished;
 - (3) Improvements would ~~be economically unfeasible or would~~ cause unreasonable land development hardships because of topography, soils, bridges, grades, etc., and delay of improvements would not adversely impact the city's road system; and
 - (4) Payment for road improvements must be in accordance with the Georgia Department of Transportation's Item Mean Summary cost information or other documentation of construction and improvement costs approved by the public works director ~~a schedule adopted by the city council in January of each year and based on current street construction costs for the required section.~~

16-16.20-L. Half Streets

Half streets are prohibited. The applicant is required to pave the full standard width of any existing unpaved public right-of-way or any proposed public street on which the proposed subdivision has frontage and access.

16-16.20-M. Temporary Dead-end Streets

Temporary dead-end streets may be platted, if recommended by the community development director and approved by the city manager, where the proposed subdivision adjoins property not yet subdivided or property that may be redeveloped. A temporary dead end street must end in a temporary turn-around. The right-of-way of any temporary dead end street must be carried to the boundary of the properties being subdivided. Street signs must be posted stating: "No Exit—Temporary dead-end street."

16-16.20-N. Permanent Dead-end Streets

1. Dead-end streets designed to be so permanently must be provided with a cul-de-sac at the closed end and may not exceed 1,200 feet.

2. The outside radius of a cul-de-sac on a public street must be at least 40 feet, measured to the inside face of the outside curb. Each cul-de-sac must provide a landscaped island at the center, and the clear width of the paved roadway measured from the outside of the landscaped island to the inside face of the outside curb may not be less than 24 feet. The radius of the right-of-way for the cul-de-sac may not be less than 50 feet.

16-16.20-O. Alleys

1. Alleys are required wherever topography or the presence of arterials or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it must be dedicated as a public right-of-way and built to the standards required in this chapter.
2. Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public must provide a continuous connection between one or more public streets. Alleys must be paved and constructed to the same standards as the connecting public streets except that:
 - a. Alleys constructed with flush curbs must have a minimum paved width of 12 feet;
 - b. Alleys constructed without flush curbs must have a minimum paved width of 16 feet;
 - c. Buildings must be set back at least 10 feet from the back of curb of an alley.

16-16.20-P. Street Grades

1. Subdivision street grades may not exceed the following, with due allowance for reasonable vertical curves:

Type	Percent Grade
<u>Major Principal 4-lane</u> arterial	8
<u>Minor 2-lane</u> arterial	10
Collector	12
Local <u>residential</u>	12
Alley	12

2. A 16% grade on local residential streets may be approved by the community development director where AASHTO sight distance in feet of 10 times the speed limit is maintained. An as-built street profile may be required.
3. No street grade may be less than 1% and no 1% grade may be longer than 300 feet.

16-16.20-Q. Horizontal Curves

Subdivision streets with design speeds of 20 miles per hour may not have a minimum centerline horizontal curve radius less than 90 feet. No other subdivision street may

have a horizontal curve radius less than 150 feet. Radius must be measured from the centerline of the right-of-way.

16-16.20-R. Sight Distance

All subdivision streets must comply with AASHTO standards ~~have a minimum sight distance of at least 200 feet~~.

16-16.20-S. Intersection Design

Subdivision intersections may not be designed in such a manner as to create a traffic hazard. ~~A minimum of 150 feet clear-sight distance must be provided at all intersections in accordance with AASHTO standards and criteria in each direction from the intersection must be provided. Where a subdivision street enters an existing major principal or minor arterial, a minimum of 250 feet sight distance in each direction must be maintained.~~ If, due to other restrictions, this minimum sight distance cannot be maintained, the applicant must, at the applicant's expense, provide adequate traffic-control devices or other physical improvements subject to the approval and installation by the city.

16-16.20-T. Access Management

The following standards apply to all subdivisions and all projects requiring a land development permit where the primary access is from a state or federal highway or an arterial ~~classified as a major, minor or residential arterial~~ or collector street. These standards apply unless a more restrictive standard is required by the state department of transportation:

1. Commercial or office properties may be required, based on site conditions as determined by the community development director, to provide cross-access ~~drive and access~~ to allow motorized and nonmotorized circulation between sites. Motorized cross-access is not required between nonresidential uses and single-family uses.
2. Joint driveways, cross-access easements and ~~pedestrian nonmotorized transportation~~ access must be established wherever feasible along ~~an major or minor~~ arterial or collector street. The building site must incorporate the following:
 - a. Continuous service drives or cross-access corridors extending the entire length of each block served to provide for driveway separation of at least 1,000 feet of linear street frontage.
 - b. A design speed of 10 miles per hour and a 2-way travel aisle width of 24 feet to accommodate automobiles, service vehicles, and loading vehicles.
 - c. Stub-outs and other design features to indicate that abutting properties may be connected to provide cross-access via a service drive.
3. The community development director may reduce the required separation distance of access points where they prove impractical, provided all of the following requirements are met:

- a. Joint access driveways and cross-access easements are provided in accordance with this section.
 - b. The site plan incorporates a unified ~~vehicular and pedestrian~~ motorized and nonmotorized transportation access and circulation system in accordance with this section.
 - c. The property owner must enter into a written agreement with the city, recorded with the deed, that pre-existing connections on the site that do not meet the requirements of this section will be closed and eliminated after construction of each side of the joint use driveway.
4. All developments must have access to a public right-of-way. The number of access points must be as follows:

Type of Development	Minimum Access Points	Type of Primary Street Access
Residential, under 75 units	1	Residential arterial or collector
Residential, 76 to 150 units	2	Residential arterial or connector
Residential, 151 to 300	3	Collector
Residential, over 300 units	4	Collector
Nonresidential, less than 300 required parking spaces	1	Collector
Nonresidential, 300 to 999 required parking spaces	2	a. Major or minor a <u>Arterial or collector</u>
Nonresidential, 1,000 or more required parking spaces	2 or more as determined by the department	b. Major or minor a <u>Arterial or collector</u>

5. The separation of access points on a ~~n major or minor~~ arterial or collector street must be determined by the speed limit of the road with the following minimum spacing requirements:

Posted Speed Limit	Minimum Driveway Spacing
Less than 35 mph	125 feet
35 to 45 mph	245 feet
Greater than 45 mph	440 feet

- a. The distance between access points must be measured from the centerline of the proposed driveway or public street to the centerline of the nearest existing adjacent driveway or public street.
- b. Driveway spacing at intersections and corners must provide adequate sight distance, response time, and permit adequate queuing space.
- c. No driveways, except residential access drives, are allowed within 100 feet of the centerline of an intersecting arterial or collector street.
- d. No nonresidential access except right-in/right-out channelized access is allowed within 100 feet of the centerline of any other ~~major or minor~~ arterial.
- e. The requirements of this section are not intended to eliminate all access to a parcel of land that was legally subdivided prior to the enactment of this section.

- 6. Where ~~major or minor~~ arterials or collector streets include medians, directional median openings must be separated by a minimum of 330 feet and full median openings must be separated by a minimum of 660 feet.
- 7. All street design and other development activities, including landscaping, must be arranged on-site so as to provide safe and convenient access for emergency vehicles.
- 8. Along ~~major or minor~~ arterials, ~~residential arterials~~, or collector streets, a deceleration lane, a turn lane, larger or reduced turning radius, traffic islands or other devices or designs, including traffic calming devices and designs, may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location.
- 9. Deceleration lanes and left turn lanes must be provided in accordance with Georgia Department of Transportation Regulations for Driveway and Encroachment Control (Driveway Manual) ~~are required for subdivision entrances of subdivisions of 20 or more units that provide less sight distance (in feet) than 10 times the posted speed limit (in miles per hour). The minimum deceleration lengths must be as specified below. The community development director may vary length requirements based upon a consideration of available sight distances.~~

Operating Speed	Deceleration Lanes
Subdivision streets	Not required
35 mph	150' + 50' taper
40 mph	150' + 50' taper
45 mph	150' + 50' taper
55 mph	200' + 150' taper

~~Note: Deceleration lanes located within 75 feet of an intersection radius may be extended to the intersection.~~

Planting Strips³⁷

16-16.30 Street Trees

16-16.30-A. General

These street tree planting requirements apply in all ~~residential~~ districts.

16-16.30-B. Tree Planting Requirements

- 1. A street tree planting plan must be submitted to and approved by the city arborist prior to issuance of a development permit. The plan must be prepared and sealed by a registered landscape architect, certified arborist or registered forester. All proposed trees must be individually identified on the plan with an included tree species list.

³⁷ Existing Sec. 16-498 is proposed for deletion. It appears to merely make reference to the city arborists recommended tree lists.

2. Street trees must be planted in the right-of-way. Trees must be planted at intervals or no more than 50 feet and no closer than 25 feet to street intersections. Street trees are not required abutting each individual lot where spacing distances are inadequate. Street trees are required on both sides of the street. The city arborist may approve alternate spacing when the 50-foot spacing requirement cannot be met due to driveways and other improvements.
3. Street tree species shall be selected in accordance with the Appendix B, subject to approval by the city arborist. No more than 35% of any one species may be used throughout the development.
4. Street trees must have a minimum caliper of 3 inches. They must be single-stemmed with a single, straight leader.
5. The builder/~~developer~~ must install ~~on each lot~~ the street trees specified on the street tree planting plan prior to the issuance of the certificate of occupancy. However, street tree plantings may be delayed from May 1 through October 1, provided that the builder enters into a performance surety agreement with the city guaranteeing tree planting by October 15. The performance surety agreement must be executed before the issuance of certificates of occupancy.
6. Street trees count towards the minimum individual lot tree density requirements set forth in [Article 10](#).

16-16.30-C. Installation and Maintenance

1. Installation

- a. All trees must be installed in a sound workmanlike manner and according to accepted good planting procedures. No certificate of occupancy or similar authorization may be issued unless the requirements of this section have been met.
- b. Impermeable rigid tree root barriers must be installed in a linear method in all tree planting areas. The barriers must be a minimum of 24 inches deep and include ribs to direct root growth downward. The root barriers must be installed in accordance with city standards and specifications.
- c. Expandable plastic tree trunk protectors must be installed on each tree.

2. Staking and Guying

Newly planted trees may not be staked or guyed unless [approved by the city arborist](#). ~~they are unable to stand upright without support. Materials used must be flat woven polypropylene photodegradable three fourths inch wide with 900 pound break strength. Any staking and guying materials used shall be removed within one year of installation.~~

3. Maintenance

Street trees must be maintained by the property owner who owns the abutting lot or by the ~~homeowners'~~ property owners' association. Maintenance must include watering, pruning, tree replacement and removal of leaves and litter from the sidewalks and street, as necessary. A maintenance responsibility statement must be provided on the final plat.

16-16.40 Easements

16-16.40-A. Applicability

The provisions of this section apply to easements for or in subdivisions.

16-16.40-B. Dedication Permission

The applicant must obtain permission from the community development director for the dedication of utility easements prior to the submission of the dedication.

16-16.40-C. On-site Floodplain Easements

Where a subdivision is traversed by a stream, or floodplain, a floodplain easement must be dedicated to the city. The easement must conform to the requirements of this chapter and must conform substantially to the limits of such stream or floodplain plus additional width outside the floodplain limits, up to 5 feet, as necessary to accommodate future access.

16-16.40-D. Off-site Drainage Easements

Where drainage system improvements are required on private land outside the subdivision, appropriate drainage rights must be secured by the applicant and indicated on the plat.

16-16.40-E. Nonmotorized Transportation Easements and Paths

Nonmotorized transportation easements and paths are required in subdivisions or projects requiring a land development permit to provide circulation or access to schools, parks, libraries, shopping centers, transportation centers and other community facilities. Such easements must have a ~~paved~~ width of 5-15 feet. Such paths must be surfaced and ~~be~~ constructed in accordance with city standards and specifications.

16-16.50 Blocks

16-16.50-A. Length, Width and Shape Determination

The lengths, widths and shapes of blocks in subdivisions must be determined with due regard to:

1. Provision of building sites suitable to the special needs of the type of use contemplated or for the conservation of open space or existing historic features;
2. Zoning requirements as to lot sizes and dimensions;

3. Needs for convenient nonmotorized transportation access ~~by pedestrians and bicyclists~~ to public transit, nearby schools, or commercial districts, vehicular circulation at safe speeds and adequate access for emergency vehicles; and
4. Limitations and opportunities of topography to minimize land disturbance and erosion.

16-16.50-B. Maximum and Minimum Lengths

The dimensions of blocks must be designed to ~~accommodate and~~ promote safe and efficient motorized and nonmotorized transportation access ~~vehicular circulation at safe speeds~~. The ~~desirable~~ maximum block length in a low-density residential subdivision (4 or fewer dwelling units per acre) is 1,200 feet. The maximum block length in other contexts is 600 feet. Shorter maximum block length requirements may be imposed by the city in walkable, mixed-use environments and the desirable minimum length is 300 feet.

16-16.50-C. Midblock Easements and Paths

In blocks of 800-600 feet or more, the community development director may require the reservation of a 10-foot easement and durable, all-weather surfaced path with a minimum width of 5 feet ~~the paving of a 5-foot wide path~~ through the block to accommodate utilities, drainage facilities, or nonmotorized travel. Such paths must be constructed in accordance with city standards and specifications.

16-16.60 Lots

16-16.60-A. Dimension, Size and Shape Orientation

The lot size, width, depth, shape and orientation and the minimum building setback, side yard, and rear yard lines in subdivisions must be in accordance with requirements of the city zoning ordinance.

Corner Lots

~~Corner lots for residential use in a subdivision must have an extra width of not less than 15 feet more than required for interior lots by the city zoning ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to both streets.~~

16-16.60-B. Frontage

Each subdivision lot must front upon an existing paved private or public street.

16-16.60-C. Through Lots and Reverse Frontage Lots

Through lots and reverse frontage lots are prohibited-discouraged in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from ~~major~~ arterials or to overcome specific disadvantages of topography and orientation, lots fronting such features may be platted in greater depth so that dwellings may be set back an additional distance from the ~~major~~ arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from an alley do not constitute prohibited through

lots. A landscape reservation of at least 10 feet in width, and across which there is no right of vehicular access, may be required along the lot lines of lots abutting any disadvantageous feature or land use where access should be restricted in the public interest.

16-16.60-D. Side Lot Lines

Side lot lines in subdivisions must be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.

16-16.70 Common Open Space

16-16.70-A. Required

1. ~~All residential subdivisions under 5 acres or consisting of 36 or fewer dwelling units may, and a~~ All residential subdivisions of 5 acres or greater than 5 acres or consisting of more than 36 dwelling units are required to provide common open space, in order to achieve the following public purposes:
 - a. To conserve open land, including those areas containing historic or cultural resources, or sensitive natural features and wildlife habitats;
 - b. To reduce erosion and sedimentation by minimizing land disturbance; and
 - c. To preserve and develop an adequate tree cover.
2. When required, common Open space must constitute ~~be~~ a minimum of 20% of the land area in ~~all~~ new subdivision developments.
3. Common Open space required by this section may be used in a variety of ways, including natural areas for wildlife and ecological functions, parks, gardens, landscaped medians, squares, village greens, courtyards, recreational space, or recreational facilities, provided the use is consistent with the requirements of this section.

16-16.70-B. Restrictions

No more than 20% of the required common open space area may be covered with ~~an impervious surface. Impervious surfaces may include~~ paved trails, bike paths or multi-use paths, buildings, plazas, swimming pools, or athletic courts. ~~Impervious surfaces in open space may not include~~ sidewalks along public rights-of-way or parking lots, streets, or other areas for motorized vehicular use may not be counted as common open space area.

16-16.70-C. Dedications

Parks, open space, multi-use trails, recreation areas and conservation easements may be offered for dedication to the city by the property owner.

16-16.80 Public and Civic Sites

16-16.80-A. Reservations

A developer may reserve and offer property within a subdivision as a site for a civic use, including, but not limited to, public schools, fire stations, police stations, or recreation centers. The developer must allow a minimum period of one year from the date of submittal of the preliminary plat during which time the proper authorities may authorize acquisition of the property for its intended civic purposes. If the reserved site has not been authorized for acquisition by the proper authorities within one year, the reservation will terminate unless extended by the developer. If not extended, development of the formerly reserved site must follow the standard plat approval process. An amended final plat for the entire subdivision must then be processed in the required manner when submitted by the developer.

Article 17 Subdivision Improvements

16-17.10 General

16-17.10-A. Applicability

This division applies to required improvements for or in subdivisions.

16-17.10-B. Location of Required Utilities in Public Rights-of-way

All required utilities within city rights-of-way must be located as shown in the city's standards ~~of drawing and specifications, if existing, and if not existing, those shown in the county standards of drawings and specifications maintained by the county development department~~ and as ~~provided here~~instated in this article.

16-17.20 Water

16-17.20-A. Certification of Final Plat

Compliance with the improvement standards of this section must be certified by an authorized representative of the services provider~~There must be a certification placed upon the final plat from the chief engineer of the county water system, or such other watershed services provider as the city may contract with for provision of water services to the city, after the applicant has complied with the requirements of this part.~~

16-17.20-B. Water Mains

1. The city, or its designated water service provider, has the right and privilege to design water mains and appurtenances of the right size and materials in subdivisions. The design will include necessary improvements to the water system, including extensions along the entire roadway frontage of the development.
2. Sizes of water mains in subdivisions will be determined by the city to ensure adequate domestic supply and fire protection for the subdivision.
3. All materials for water mains in subdivisions will conform to specifications of the American Water Works Association.
4. Water mains will be laid a minimum distance of 4 feet back of the curb line.

16-17.20-C. Fire Hydrants

Fire hydrants ~~will~~must be installed in subdivisions so that all residential property will ~~meet-comply with~~ the requirements of the ~~county-applicable~~ fire prevention code, ~~if the county continues to provide fire and rescue services to the city, or the fire prevention code of the city should the city create its own fire department~~. The location of fire hydrants must be reviewed and approved by the public works director. Additional fire hydrant locations may be required to ensure water quality and air release standards.

16-17.20-D. Water Valves

Water valves ~~will~~must be installed in subdivisions to affect a minimum cutoff of mains in case of shutdowns.

16-17.20-E. Stub-out Services

Stub-out services ~~will~~must be installed ~~in all cases where~~when the city determines them necessary to avoid cutting of pavement or sidewalks. Stub-out services must ~~and will~~ be placed on ~~the lots~~as specified by the city.

16-17.20-F. Water Service Data

1. The applicant must furnish data on the final subdivision plat in digitized form, ~~and/or as required, to~~by the community development director.
2. The city ~~is authorized to determine must design on this plat~~ the location and size of all pipe, valves, fire hydrants, fittings and stubs to lots, consistent with design regulations promulgated by the community development director in conjunction with the city's water services provider. The city must ~~it will then~~ furnish to the owner/applicant copies of ~~this the final~~ plat with a list of materials that will include the total linear feet of main to be extended.
3. With this information the applicant will take bids from contractors and when the contract is awarded, furnish the city with a copy of the contract.

16-17.20-G. Certification

The applicant's engineer or surveyor must furnish the city with an engineer's certificate.

16-17.20-H. Prerequisites to Materials Delivery to Contractor

1. No materials to be used for subdivision water improvements will be delivered to the job site until the requirements of ~~§16-17.20-F~~ and ~~§16-17.20-G~~ have been met.
2. No work will commence on the water improvements until the water services provider ~~county water and sewer division inspectors have~~has inspected and approved all materials on the site for compliance with the materials specifications as published by the water services provider~~water and sewer division of the county public works department~~.
3. Any water line material or appurtenances found not to meet specifications must be removed from the job site by the contractor prior to commencement of any water line construction activity.

16-17.20-I. Final Inspection

Upon completion of the job of installing water improvements in a subdivision, the owner/applicant's engineer and the city's water services provider will measure the work done showing station numbers to all valves, fire hydrants and other pertinent fittings including stub locations. The owner/applicant must furnish the city a copy of

this report showing the work done. The owner/applicant must furnish the city with a final cost of the labor to install the materials.

16-17.20-J. Material Storage

It is the contractor's responsibility to acquire, properly handle, store and protect all materials. The city may not be held responsible for loss or damage to any materials. No damaged material must be utilized in the water line construction.

16-17.20-K. Excavation

1. Depth

Trenches must be excavated to a depth sufficient to provide a minimum of 3 feet of cover over subdivision water mains, and 2½ feet over subdivision water service lines. In rock cuts, the excavation must be of sufficient depth and width to provide a minimum of 6 inches' earth cushion below and along the sides of the mains.

2. Sheeting

The contractor must install sheeting and bracing where necessary to prevent caving, to protect new work and to protect adjacent utility lines, and public and private property.

3. Blasting

Blasting is permitted only with the written approval of the city for each location. The contractor must provide adequate protection, such as mats, and permit only qualified, experienced personnel to supervise blasting. Approval by the city in no way relieves the contractor from any liability for any damages whatsoever resulting from the blasting operations.

16-17.20-L. Pipe-laying

Pipe-laying must conform to the specifications prepared and approved by the community development department in effect at the time a development permit application is received by the community development department. The community development director is authorized to promulgate specifications and regulations to govern and implement this provision.

16-17.20-M. Backfilling

1. All backfilling in subdivisions must be done with material free from roots, stumps and other foreign material. No rock will be permitted within a distance of 6 inches from the pipe or ground surface. Rock larger than 12 inches in greatest dimension will not be allowed in any part of the trench. All rock larger than 12 inches must be disposed of by the contractor.
2. The placing and compaction of all backfill material must [comply with all applicable standards and specifications of the service provider/governing authority, be as follows:](#)

~~Backfill from bottom of trench to one foot above the top of the pipe must be compacted in layers not exceeding 6 inches, after compaction. Backfill along the sides and to the top of the pipe must be hand tamped with acceptable hand tamps or mechanically operated hand tampers, vibrators, etc.~~

~~From a point one foot above the top of the pipe to the surface of the trench, backfill must be placed and compacted in layers not exceeding 12 inches in thickness after compaction. The method of compaction in this section of the trench may be by any reasonable method that will give required compaction. After compaction, the dry weight per cubic foot of any 6-inch depth of backfill must be at least 95% of the maximum dry weight per cubic foot, as determined by the American Association of State Highway Official Method T 99.~~

3. The contractor must restore to the original condition as at the start of the job, all shrubbery, grass, sod, fences, etc., disturbed during the contractor's operations.

16-17.20-N. Pavement Replacement

Cuts in existing street pavement and driveways will be patched by the applicant/owner. The applicant/owner must maintain the cuts in good condition until a permanent patch is made. When necessary to abate dust, mud or potholing, the contractor must furnish and install crushed rock or cold patch asphaltic concrete to the surface of the trench. Appropriate utility permits must be obtained from the public works director prior to work being initiated.

16-17.20-O. Barricades and Lights

The contractor must furnish and place sufficient barricades and lights to adequately protect the work on subdivision water improvements, and to protect all motorized and nonmotorized traffic. No street may be completely blocked, without the permission of the public works department.

16-17.20-P. Testing

Testing of required improvements must be conducted in accordance with standards and specifications of the service provider/governing authority.

~~All subdivision mains, including fire hydrants and service laterals, are subject to a minimum of 150 pounds per square inch hydrostatic test for a period of 3 hours. When static pressure exceeds 100 pounds per square inch, the test pressures must be equal to static pressure plus 50 pounds per square inch.~~

~~The contractor must fill the line slowly, taking care to blow off air at fire hydrants or service laterals at high points of line. If a fire hydrant or service lateral is not available at high points, the contractor must furnish all materials and install 1½-inch blowoffs to relieve trapped air. After the line has been filled, pressure must be increased to test pressure with a pump.~~

~~A pressure gauge must be installed on the discharge side of the pump. The pressure must be maintained for 3 hours; and during the last hour of the test period, the volume of water required to maintain the pressure will be measured. The leakage, or volume of water required, may not exceed the requirements of the American Water Works Association Standard Specifications, C 600.87, or latest revision thereof. No line will be accepted until it has passed leakage test requirements. The contractor, at the contractor's option, may cover all joints prior to testing. However, if the water mains do not pass the leakage requirements, the contractor will be required to uncover joints and pipe until all leaks have been located and repaired. All visible leaks must be repaired, regardless of results of leakage tests.~~

16-17.20-Q. Sterilization of Mains

The contractor will furnish all chemicals, feeding equipment and manpower for the sterilization of water mains. The contractor is responsible for the disposal of dose water in accordance with environmental protection division regulations. The contractor must employ a hydric meter to record the quantity of water used and reimburse the city's water services provider for the appropriate amount.

16-17.20-R. Cleanup

A thorough cleanup must be made before final acceptance of subdivision water improvements. All excess rock must be removed; private and public property must be restored to original condition, and all excess water line materials removed from the job site.

16-17.20-S. Service Laterals

The contractor must submit an as-built drawing showing the location, lot number and street address for each service lateral installed in a subdivision.

16-17.20-T. Maintenance

1. The owner/applicant must maintain all water mains, appurtenances, trenches and other disturbed surfaces for a period of 12 months after approval and acceptance by the city.
2. The contractor is responsible for repairs to any leaking pipe, fittings, etc. Should any trench settle, the contractor must promptly furnish and place fill to original grade. If any leak or trench settlement occurs under any pavement, the contractor will be held responsible for the cost of replacing the pavement.

16-17.30 Sewer

16-17.30-A. Installation

1. Sanitary sewers must be laid in all streets, service connections installed to property lines, and connections made to trunk line sewers in all subdivisions, including subdivisions with private disposal systems.

2. The developer of a property adjacent to undeveloped and unserved land lying upgradient from the subject property, must extend the sewer main to the outside boundary of the property being developed in order to allow for the future provision of sewer service to such unserved adjacent property unless waived by the community development director.
3. In all developments with private disposal systems, lines must be laid and temporarily plugged or capped at the points of service connections to the proposed trunk sewer line and individual lot lines in accordance with county requirements and specifications.
4. Corresponding service connections must be installed and temporarily plugged or capped from each principal structure in such a manner that a proper service connection can be made when permanent sewer service is available. This requirements may be waived by the community development director based upon service feasibility to the principal structure as determined by the elevation of the structure with reference to the elevation of the proposed sewer line.
- ~~5. The requirements of this section may be waived by the city council. Applications for this waiver must be submitted to the council through the community development director, who must schedule the request for a public meeting before the council. The waiver may be granted by the council if it finds that the property for which a waiver is sought is in accordance with applicable provisions of this code and the county board of health regulations concerning the minimum lot size for private disposal systems, and if the property is located in any of the following areas:~~
 - ~~a. An area of the city where, due to topographic or soil conditions, public sewer service is not feasible;~~
 - ~~b. An area of the city where the installation of sewer service is not scheduled under the approved capital improvements program of the city or county;~~
 - ~~c.a. An area of the city where the installation of sewer service is not planned to be accomplished within a 6-year period.~~

16-17.30-B. Design

Design of the proposed sewer system within a development must conform to the specifications prepared and approved by the department of community development in effect at the time a development permit application is received by the department of community development.

16-17.30-C. Filing of Plans

Filing of plans must conform to the specifications prepared and approved by the department of community development in effect at the time a development permit application is received by the department of community development. The lowest minimum finished floor elevation must be noted for each lot.

16-17.30-D. Materials

Materials must conform to the specifications prepared and approved by the department of community development in effect at the time a development permit application is received by the department of community development.

16-17.30-E. Construction

Construction must conform to the specifications prepared and approved by the department of community development in effect at the time a development permit application is received by the department of community development.

16-17.30-F. Comments on Plat

Upon receiving the preliminary plat, the community development director must compare the proposed subdivision in relation to existing and proposed sewer systems. Comments, recommendations and changes deemed advisable will be marked on the preliminary plat and returned to the community development director.

16-17.30-G. Certification on Plat

The community development director must place certification upon the final plat after the applicant has complied with the sewer system requirements of the county. Such certification is required prior to final approval by the city manager.

16-17.30-H. Acceptance

The city or its designated wastewater services provider may not accept the subdivision sewer project until the applicant has complied with all applicable requirements of the city and the county.

16-17.30-I. Maintenance

1. The owner/applicant must maintain all sewer lines, appurtenances, trenches and other disturbed surfaces for a period of 12 months after approval and acceptance by the city manager and/or the city's wastewater services provider.
2. The owner/applicant must be responsible for repairs to sewer system. Should any trenches settle, the owner/applicant must promptly furnish and place fill to original grade. Should any leaks or trench settlement occur under any pavement, the contractor will be held responsible for the cost of replacing pavement.

16-17.40 Streets**16-17.40-A. Standards****1. Generally**

Street improvements must be provided in each subdivision in accordance with the specifications in this section and the city's standards and specifications and the regulations of this chapter. ~~The term "state transportation department specifications" to the state specifications in effect at the time the work is placed under contract. The references made to these specifications govern the materials~~

~~and equipment as well as the construction method of every class of work so applicable unless otherwise noted.~~

2. Grading

The construction limits must be cleared of all trees, stumps, brush and rubbish before grading operations are begun. No trees, stumps, brush or rubbish must be placed in fill sections within the construction limits. Such debris must be disposed of in a manner satisfactory to the community development director. Fill sections must be placed in 6-inch layers with each layer thoroughly compacted with a sheep foot roller or by other approved methods before the next layer is placed, compaction to be not less than 95% as determined by ASTM D 698. ~~Where unsatisfactory material is encountered (namely any material that will not compact properly, including solid rock) an additional 12 inches must be excavated below the subgrade elevation and backfilled with a select material. Where unstable material is used in fills, the fill must be left 12 inches below the subgrade elevation. This 12 inch fill section must be filled with select material.~~ Streets must be graded to the width required to accommodate street, curb and sidewalk improvements ~~of not less than 42 feet in the center of the right of way to provide 8 foot shoulders in accordance with city's standard plan.~~

3. Curbing

Header curbs or standard curb and gutter ~~ing~~ is required on all streets and must be furnished and installed by the applicant unless grassed swales are used for water quality control and approved by the community development director. The minimum classes and types of curbing permitted will be as follows:

- a. Granite curbing, class D or better.
- b. Other as approved by the community development director. All curbing must be placed in firm, well-compacted subgrade, and curbing displaced prior to acceptance for maintenance by the city must be reset or replaced. Specifications for the granite curbing are available from the city department of community development.

4. Base and Paving

All roadways must be paved in accordance with city standards and specifications.

5. As-built Drawings

As-built drawings for all new streets must be submitted to the department of community development depicting a street profile based on the centerline and 50 foot stations.

6. Third Party Inspections

Before acceptance by the city, street improvements must be inspected by a qualified third party for compliance with all applicable city standards and specifications.

16-17.40-B. Street Signs

1. The city's standard steel post with horizontal reflectorized street nameplates with 4-inch letters must be furnished and set by the city at all subdivision street intersections.

~~Street name signs must have 4 inch black letters on reflectorized silver background with black border. Nameplates must be mounted parallel or nearly parallel to the street. The names must be marked and visible from both sides. Sign posts must be 10 foot poles with at least 3 feet well embedded in the ground.~~

2. The applicant must pay to the city for each street name sign a fee in the amount established by the community development director and approved by the city council.

3. To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.

~~3-4. Street name signs must be installed before a final plat is approved.~~

4. ~~For subdivisions recorded under a performance bond, the street marker will not be installed until the paving has been completed.~~

5. ~~For subdivisions recorded under a maintenance bond, the public works department will be furnished a plat and a memo requesting that street markers be installed at the time of recording.~~

16-17.40-C. Road Hazards

Subdivision signs, planter boxes, and other similar permanent structures may not be located on street rights-of-way and may not be constructed in a manner which, in the opinion of the city, obstructs driveway sight distance or creates a traffic hazard; detailed plans for these structures must be submitted to the community development director.

16-17.40-D. Surface Drainage

1. The size, length and location of all surface drainage pipes or structures must be shown on the final subdivision plats and subject to the approval of the public works department. All storm drain pipes or culverts carrying stormwater from the street and adjacent property between or through lots must be extended to at least 30 feet behind the rear of the house. Stormwater must be released into a channel without causing scouring, erosion or resulting sedimentation to the receiving channel. When necessary, the outlet channel must include structural and vegetative measures to ensure non-erosion velocities. This requirement for pipe extension only applies to the discharge ends of piped systems.
 - a. An exception to extending pipes 30 feet behind the rear of the house may be made for pipes 54 inches and larger where the house site is proposed to be more than 30 feet from the center of the drainageway.

- b. An exception to extending pipes 30 feet behind the rear of the house may be granted by the city when soil conditions prohibit erosion.
 - c. An exception to extending pipes 30 feet behind the rear of the house may be granted by the city where lots are at least one acre in size, open channels are provided, and neither ponding nor erosion control will result.
- 2. Installation, backfilling and compaction must be in accordance with state transportation department specifications, sections 106 and 520. All pipes must have a minimum cover of one foot and headwalls or inlet basins constructed at the end of each pipe.
- 3. The design of drainage structures must be based on recognized hydrological formulas as outlined in the *Stormwater Management Manual*.
- 4. A contour map with an interval of 2 feet must be submitted as part of preliminary plats. As determined by the community development director, any lots within the subdivision which are undesirable for building due to bad drainage conditions must be excluded, and no building is permitted thereon until these conditions have been corrected as specified by the community development director.

16-17.40-E. Plans and Profiles

~~Four~~ Three copies and one electronic/digital copy of the complete plans and profiles for subdivision street improvements must be submitted for review and recommendation of approval or denial by the public works department prior to approval of the final plat.

16-17.40-F. Financial Guarantees

- 1. If, at the time the final plat is submitted for approval, the construction of the street improvements has not been accomplished, then the final plat must be disapproved. No performance bonds may be allowed or authorized except the community development director may require a performance bond to be filed with the city to ensure that all final road improvements required by this Code are made by the owner or applicant. The city may not accept a road until such time as all road improvements required by the city are made.
- 2. After the work has been completed in accordance with the city specifications and duly inspected by the city, then a maintenance bond is required, equal to 10% of the estimated construction cost. The proposed maintenance bond must be reviewed and approved as to form by the city attorney prior to acceptance by the city. The maintenance bond must cover the street improvements, drainage system, water system and sewer system. Funds may be placed in escrow with the city in lieu of maintenance bonds.
- 3. The applicant must sign a maintenance agreement with the city, by which the applicant must agree to maintain the streets, drainage, water quality BMPs, water and sewer systems, and rights-of-way for a period of 12 months. During the applicant maintenance period, the city must make inspections and instruct the applicant by letter as to what correction must be made.

4. In case of emergency repairs, which must be made immediately, or required corrections, which are not made within 30 days of notice, the city must have the authority to make these corrections and recover costs from the applicant. In cases where funds are being held in escrow by the city, the cost of making these corrections must be deducted from these funds, and the applicant charged with any costs above the amount of escrow funds.
5. At the end of the 12-month applicant maintenance period, the city must make a final inspection and notify the applicant and the bonding company of any corrections to be made. If the work is acceptable, the community development director must recommend to the city attorney that all remaining escrow funds be released; provided, however, in the discretion of the community development director, based upon:
 - a. Weather conditions;
 - b. Labor market;
 - c. Material market; or
 - d. Circumstances beyond the control of the applicant or the city unforeseen by either party.
6. The maintenance period may be extended for a definite period of time sufficient to make the necessary corrections by an agreement in writing executed by the city, the applicant and his surety. Provided, further, that the applicant is responsible for any damages done to work already completed by him to the time of the extension agreement whether or not the city had accepted it.
7. Maintenance bonds and acceptance by the city of any dedicated improvements must be as one package upon completion of all improvements, even though the final plat may have been approved prior to completion.

16-17.40-G. Standard Plans and Specifications

Standard city plans and specifications referred to in this part are on file and may be obtained from the community development department. ~~The plans are cross sections and construction drawings for a graded street, paved street, driveway section for curbed streets, brick catch basin, barricade for dead end streets, 24 inch concrete curb and gutter section and standard street marker.~~

16-17.40-H. Sidewalks and Bicycle Lanes

1. Sidewalks are required on all sides of street frontage on all new and improved local residential streets in all subdivisions and along the street frontage of all new and improved nonresidential developments and as set forth in Sec. ~~16-16.20-J~~, unless ~~determined by~~ the community development director ~~determines that to be infeasible and only due to severe cross-slopes, shallow rock, soil or topographic conditions.~~

- a. Sidewalks are infeasible and their absence in the particular circumstances will not be detrimental to the public health, safety or welfare of the public or injurious to the property or public improvements;
- b. The requested sidewalk exception does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; and
- a-c. The requested exception is consistent with all relevant purpose and intent statements of this chapter.

- 2. At a minimum, ~~however,~~ continuous sidewalks are required on at least one side of all new and improved local residential streets. No other variances or exceptions are allowed.
- 3. The community development director may require that sidewalks ~~required pursuant to subsection (a) of this section~~ be continued extended to the nearest ~~major or minor~~ arterial or collector street.
- 4. A grassed, planted or landscaped strip, as set forth in Sec. ~~16-16.20-J~~, must separate all sidewalks from adjacent curbs, bridges excepted. The community development director may approve a variable sidewalk location and landscape strip width based on site conditions and future road expansions. Where sidewalks currently exist, new sidewalk construction or reconstruction must be continuous with existing sidewalks.

~~Sidewalks must be concrete and a minimum of 5 feet wide and 4 inches thick. In nonresidential districts, where the community development director may approve sidewalks to be located immediately behind the curb, such sidewalks must be 6 feet in width. Concrete must be class B, as defined by the state department of transportation, and have strength of 2,500 psi at 28 days. Disturbed areas along sidewalks must be backfilled, stabilized, and grassed. The required width of a sidewalk may be increased, as determined by the community development director, based on site conditions to ensure pedestrian safety. See also Sec. ~~16-16.20-J~~.~~

- 5. Sidewalks must be installed at the same time as the building construction, unless an alternative method is approved by the community development director. Sidewalks must be completed prior to the issuance of certificate of occupancy for property on which the sidewalk fronts. The sidewalk plan must be recorded on the final plat and all sidewalks completely installed prior to approval of the final plat.
- 6. Sidewalks may not be cut, removed or closed temporarily without a permit from the public works department. Such permit may not be issued unless safe, adequate, and convenient provision is made for nonmotorized travel through the area that is disrupted. Damage to sidewalks caused during construction or development activity must be repaired at no cost to the city within 30 days or prior to issuance of a certificate of occupancy, whichever is earlier.

7. All sidewalk construction and repairs must provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps must be constructed pursuant to standards approved by the public works department.
8. Sidewalks may not be constructed on any street in the city without first obtaining a permit to do so from the public works department. Any person constructing a sidewalk on a street, without first obtaining a permit, is in violation of this Code, and the public works department is authorized to condemn the sidewalk and have it removed and replaced at no cost to the city.
9. Bicycle lanes are required on new or substantially improved ~~major or minor~~ arterials, ~~parkways~~, or collector streets where the posted speed limit is 35 miles per hour or greater. Bicycle lanes may also be required by the community development director where necessary to provide connections to bikeways ~~in concert with the identified on the comprehensive transportation plan or other adopted plan~~city bikeway master plan, if one is established by the city. Bicycle lanes must be constructed as follows:
 - a. Bicycle lanes, where required, must be at least 4 feet wide and placed in the outside lane of a roadway, adjacent to the curb and gutter or shoulder. Curb and gutter areas may not be counted in calculating the width of a bicycle lane. When on-street parking is permitted, ~~the bicycle lanes~~ must be at least ~~5-4~~ 5-4 feet in width ~~wide~~ and located between the parking lane and the outer travel lane. Bicycle pavement widths are in addition to the minimum pavement width required for the road. See also Sec. ~~16-16.20-J~~.
 - b. Bicycle lanes must be delineated with signs and striping consistent with the latest edition of the manual for uniform traffic control devices, and approved by the community development director.
 - c. Bikeways and bicycle lanes must be constructed in accordance with the most recent specifications set forth in American Association of State Highway and Transportation Officials (AASHTO) guidelines.
 - d. The design, striping and sign system for bicycle lanes must be coordinated with that of the vehicular road system to provide a safe and continuous route for bicycles. Deceleration lanes must be striped so that bicycles can safely remain in a lane marked between the deceleration lane and the through traffic lane.
10. No wall, fence, sign or other structure may obstruct passage along a sidewalk or bicycle lane.

16-17.40-I. Parking on Right-of-way

1. For residential projects constructed under the provisions of the zoning ordinance as single-family attached residential projects, wherein title to the single-family unit is held by fee simple ownership, the city may assume maintenance respon-

sibility one year after the release of the subdivision bonds for parking constructed on public rights-of-way, in accordance with minimum city standards. A special parking maintenance district, as authorized by Georgia Constitution article IX, §II, ¶ VI, comprised of all property within such single-family attached residential subdivision, may be established by resolution of city council for the maintenance of such parking constructed on the public right-of-way at the time the subdivision plat is finally recorded, provided the plat is so noted.

2. Final subdivision plats for single-family attached residential projects must have the following notation when a special district is to be established for city maintenance of parking within the public right-of-way:

"All single-family residential lots on this plat are included in a special taxing district for funding the maintenance of parking provided in the development."

3. If the city creates a special parking district, as authorized by Georgia Constitution article IX, §II, ¶ VI, revenue to fund city parking maintenance will be obtained by an ad valorem tax levied on all properties within such parking district. Such ad valorem millage will be set annually by the city council when other ad valorem millage rates are set. No assessment will be made in a special parking district in the calendar year in which it is established.

16-17.40-J. Underground Utilities

All utilities are required to be placed underground ~~in all new subdivisions of 2 or more lots except where no utility improvements are required by this chapter, or where unless~~ the community development director determines that underground utilities are infeasible due to shallow rock, high water table, or other similar geologic or hydrologic conditions.

16-17.40-K. Streetlights

Streetlights consistent with Georgia Power specifications are required in all new subdivisions of 2 or more lots except where no utility improvements are required by this chapter. Streetlights must be provided on the same side of the street as sidewalks.

16-17.50 Private Sewage Disposal

16-17.50-A. Preliminary Plat

At the time of submittal of the preliminary subdivision plat and application to the community development director, the applicant must submit to the county board of health the following information when public sewers are not available to the proposed subdivision:

1. Four copies of a sewer feasibility report;
2. Four copies of soil data records on forms provided by the board of health; and
3. Four copies of the subdivision analysis record on forms provided by the board of health.

16-17.50-B. Contour Intervals

Topographic data submitted to the city pursuant to the provisions of this division must show contour intervals of 2 feet.

16-17.50-C. Soils

Soil analysis must be conducted in accordance with the health regulations of the DeKalb County Code.

16-17.50-D. Review and Analysis

1. Upon receiving the preliminary plat from the department of community development and data required in [§16-17.50-A](#) through [§16-17.50-D](#) from the applicant, the county board of health personnel must make an overall analysis of the subdivision and must indicate in writing on the preliminary plat the results of this analysis. The plat must then be returned to the department of community development.
2. Regarding the preliminary analysis, each lot must have sufficient area and topographic features to accommodate the installation of an individual sewage disposal system in accordance with regulations applicable to these installations.
3. Any condition in the area to be subdivided found to be in violation of any health regulation is sufficient grounds for disapproval of the preliminary plat.

16-17.50-E. Inspections

1. Upon receiving the final plat from the city and when streets have been cut and individual lots are staked and identified, the board of health personnel will inspect each lot for adaptability to individual sewage disposal systems.
2. After inspection has been completed, the board of health must render a written report to the community development director that must include changes or recommendations or deletions. The final plat must be signed by the authorized representative of the board of health, written report attached, and returned to the city.

16-17.50-F. Issuance of Septic Tank Permits

No septic tank permits may be issued until 4 copies of the approved final plat, signed by the city manager, have been submitted to the board of health. The 4 copies of the approved plat must be provided by the city.

16-17.50-G. Drainage Between Lots

Where drainage between subdivision lots is involved and pipe is required, a water-tight pipe must be used and must extend for a sufficient depth of the lot and not terminate at some point just behind the building line causing pools to be formed or flooding of septic tank drain fields.

16-17.50-H. Discharge into Public Waters

The Georgia Department of Natural Resources is authorized by the Georgia Water Quality Control Act to review plans and specifications of all sewage treatment facilities discharging into any waters of the state.

16-17.50-I. Board of Health Recommendation

The board of health may reject any or all domestic sewage disposal systems and may recommend in lieu thereof the extension of the public sewerage system or the installation of any approved temporary community sewerage system conforming to the Georgia Water Quality Control Act.

16-17.50-J. Impoundment Permit

Where ponds one-tenth of an acre or larger are located in a subdivision or adjoin a subdivision, an impoundment permit must be obtained in compliance with the impounded water regulations of the Georgia Board of Natural Resources.

16-17.50-K. Compliance with Board of Health Requirements

All septic tank systems must conform to the requirements of the board of health.

Article 18 Subdivision Variances

16-18.10 Authority

16-18.10-A. The zoning board of appeals is authorized to hear and decide applications for variances from the strict application of the subdivision design standards of [Article 16](#), where strict application of any of the regulations of [Article 16](#) would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in the city; thus, variances from the requirements of [Article 16](#) may be authorized only upon the zoning board of appeals making all of the following findings:

1. By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of [Article 16](#) would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;
2. By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;
3. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;
4. The requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located; and
5. The requested variance will not in any manner vary the provisions of the city zoning ordinance, the city comprehensive plan or the zoning map of the city.

16-18.10-B. No variance may be granted by the zoning board of appeals to:

1. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the city council;
2. Increase the density allowed on the property; or
3. Vary the requirements set forth [§16-16.60](#).

16-18.10-C. Applications for variances must be submitted in writing to the community development director along with the application for sketch plat approval or if a variance becomes necessary after the approval of the sketch plat, within 30 days of discovery of the conditions requiring such a variance from the preliminary plat. Applications must contain all those materials and documents required by the community development director that are necessary to demonstrate the necessity for the variance and compliance with the requirements of this Code. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a

plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.

- 16-18.10-D.** When the variance application is first considered by the zoning board of appeals, the community development director must provide the zoning board of appeals with written findings of fact and a recommendation for approval or disapproval of the variance.
- 16-18.10-E.** Applications for variances that accompany the application for sketch plat approval must be heard by the zoning board of appeals prior to the approval of a sketch plat.
- 16-18.10-F.** ~~After the filing of a complete application for a variance from the preliminary plat variance, the application must be heard placed on the next available meeting agenda at a public hearing by the zoning board of appeals at the next meeting of the zoning board of appeals held after the filing of a complete application for variance from the preliminary plat.~~ Applications for a variances from the preliminary plat must be heard placed on the next available meeting agenda at a public hearing by the zoning board of appeals at the next meeting of the zoning board of appeals. All land development activity associated with a proposed variance from a preliminary plat must cease until a final decision on the variance is made by the zoning board of appeals. Land development activity that is not related to the proposed variance may continue unabated.
- 16-18.10-G.** All decisions by the zoning board of appeals approving or disapproving a variance must be issued in writing and must provide the grounds for the decision of the zoning board of appeals. The zoning board of appeals must issue a final decision on a variance submitted with the application for a sketch plat at the same time that it issues the final decision approving or disapproving the sketch plat. The zoning board of appeals must issue a final decision on a variance from the preliminary plat within 50 days after the first meeting at which the zoning board of appeals considers the variance. If a final decision is not made on a subdivision plat variance in accordance with the time constraints set forth in this section, the variance will be deemed ~~dis~~approved.
- 16-18.10-H.** ~~Appeals of variances that accompany applications for sketch plat approval must be made by writ of certiorari to the county superior court.~~ Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a variance decision of the zoning board of appeals affecting a preliminary plat, may appeal such decision by filing a petition for writ of certiorari to the county superior court in accordance with state law.

APPENDICES

Appendix A Tree Replacement Density Factor Calculations

The following abbreviations are used below:

TDF—Tree Density Factor

RTF—Remaining Tree Factor

RRD—Required Replacement Density

Step 1. Calculate the tree density factor (TDF) for the site multiplying the number of site acres by 20.

EXAMPLE: A 2.2 acre site has a TDF OF $2.2 \times 20 = 44$.

Step 2. Calculate the existing trees, which will remain, or the Remaining Tree Factor (RTF). These will remain on-site and be protected during construction. The RTF is determined by converting the DBH of individual existing trees to density factor units, using Table 1. These units are then totaled to determine the RTF for the site.

EXAMPLE: A total of 15 trees will remain on the 2.2 acres site in Step 1. These trees include:

7 12" pines

3 14" pines

3 18" oaks

1 20" hickory

1 30" oak

When converted to density factor units using Step 1, we arrive at the following values:

DBH	UNITS		QUANTITY		# TREES
12"	0.8	×	7	=	5.6
14"	1.1	×	3	=	3.3
18"	1.8	×	3	=	5.4
20"	2.2	×	1	=	2.2
30"	4.9	×	1	=	4.9
			RTF	=	21.4

The sum total of units, 21.4, is the RTF.

Step 3. Calculate the required replacement density (RRD) by subtracting the RTF (Step 2) from the TDF (Step 1).

$$\text{RRD} = \text{TDF} - \text{RTF}$$

EXAMPLE: $RRD = 44 - 21.4$

$RRD = 22.6$

Step 4. The RRD can be converted back to caliper inches using Table 3. Any number or combination of transplantable size trees can be used so long as their total density factor units will equal or exceed the RRD.

EXAMPLE: On the 2.2-acre site the following number and size of trees will be planted:

Number	Size	Species	Density Factor
15	6'	Pines	$(12 \times 0.4) = 6.0$
20	2"	Red Maples	$(20 \times 0.5) = 10.0$
7	6"	Oaks	$(7 \times 1.0) = 7.0$
			23.0

23.0 is greater than the RRD of 22.6 thus the minimum requirements have been met.

TABLE 1. SAMPLE TREE DENSITY CALCULATION

Required TDF

$2.2 \text{ acres} \times 20 \text{ units/acre} = 44 \text{ units required}$

RTF (Remaining Tree Factor)

SIZE	UNITS	NUMBER	TOTAL UNITS
24"	3.1	2	6.2
18"	1.8	10	18.0
10"	0.6	8	4.8
		TOTAL RTF	29.0

RRD (Required Replacement Density)

SIZE	UNITS	NUMBER	TOTAL UNITS
2"-3"	0.5	10	5.0
1"	0.4	100	40.0
		TOTAL RRD	45.0

$RTF + RRD \geq TDF$

$29.0 + 45.0 = 74.0$, therefore Tree DENSITY SATISFIED

TABLE 2. EXISTING TREES TO REMAIN. Conversion from DBH to density factor units for RTF, or Remaining Tree Factor.

DBH	UNITS	DBH	UNITS	DBH	UNITS
1-4	0.1	22	2.6	37	7.5
5-7	0.3	23	2.9	38	7.9
8-9	0.5	24	3.1	39	8.3
10	0.6	25	3.4	40	8.7
11	0.7	26	3.7	41	9.2
12	0.8	27	4	42	9.6
13	0.9	28	4.3	43	10.1
14	1.1	29	4.6	44	10.6
15	1.2	30	4.9	45	11
16	1.4	31	5.2	46	11.5
17	1.6	32	5.6	47	12
18	1.8	33	5.9	48	12.6
19	2	34	6.3	49	13.1
20	2.2	35	6.7	50	13.6
21	2.4	36	7.1	51	14

TABLE 3. REPLACEMENT TREES. Conversion from caliper to density factor units for replacement trees. (1, 2)

Caliper: Single-Stem Deciduous Trees	Density Units
2"	0.5
3"	0.6
4"	0.7
5"	0.9
6"	1.0

Height: Multi-Stem Deciduous Trees	Density Units
12' to 14'	0.5
14' to 16'	0.6
16' to 18'	0.7
18' to 20'	0.9

Height: Evergreen Trees	Density Units
6' to 8'	0.4
8' to 10'	0.5
10' to 12'	0.6
12' or greater	0.7

Tree relocation: Replacement units will be granted to trees relocated on-site. Tree relocation is subject to City Arborist and/or Zoning Enforcement officer approval.

#L.3.

Appendix B Tree Selection

1. Trees selected for planting must meet minimum requirements as provided below and in the American Standard of Nursery Stock.
2. Trees selected for planting must be free from injury, pests, disease, or nutritional disorders.
3. Trees selected for planting must be of good vigor. The determination of vigor is a subjective evaluation, and dependent upon species variability. The following criteria is generally used for the determination of vigor:
4. Foliage should have a green or dark green color. Vigorous trees will have large leaves and dense foliage when compared to trees with poor vigor.
5. Shoot growth for most vigorous trees will be at least 1 foot per year. At least $\frac{1}{2}$ of the branches should arise from the top $\frac{1}{3}$ and $\frac{1}{2}$ from the center $\frac{1}{3}$.
6. Bark texture can denote vigor. Smooth or shiny bark on the trunk and branches of a young tree usually signifies good vigor, conversely, rough and full bark could indicate poor vigor.
7. Trunk taper. The trunks of vigorous trees will generally have an increase in diameter with a decrease in height. Trees with reverse tapers or no taper should be avoided.
8. Root color. Young roots of most trees will be light in color.
9. Trees selected for planting must be free of root defects. Two types of root defects generally occur:
10. Kinked roots, in which taproots, major branch roots, or both are bent more than 90 degrees with less than 20% of the root system originating above the kink. A tree with such roots will probably bend at the soil line when released from a supporting stake.
11. Circling or girdling roots which circle 80% or more of the root system by 360 degrees or more. A tree with such roots would ultimately have less than 20% of its system available for support.

#L.3.

Appendix C Tree Transplanting

The transplanting of new trees can result in major injury to their root system. If proper transplanting techniques are employed, conditions will be more favorable for tree recovery, and the rate of attrition for newly planted trees will be reduced. Transplanting procedures must follow standards established by the International Society of Arboriculture in the *Trees and Shrub Transplanting Manual*, and the booklet by the Georgia Extension Service entitled *Plant Trees Right!* The following is a summary several of the more important considerations provided in the manual and booklet.

Preplanting Considerations:

1. Only healthy trees with a well-developed root system and a well-formed top, characteristic of the species should be planted.
2. Trees selected for planting must be compatible with the specific site conditions.
3. The ability of a species to regenerate a new root system and to become reestablished should be considered. Generally, deciduous trees should be planted in the fall after leaf drop, or in early spring before bud break. There are indications that bare root trees will re-establish more readily if planted in early spring just prior to bud break.

Planting Procedures

1. Planting holes should be at least 3 times the diameter of the root ball.
2. Trees should not be planted deeper than they were in their former location or container.
3. Spade compacted bottom and sides of the planting hole should be roughed or scarified to allow the penetration of developing roots.
4. Good water drainage from the bottom of the planting hole is essential for root regeneration.
5. Once the transplanted tree is set, the hole should be backfilled with soil of good texture and structure. Traditionally, backfill material is comprised of a mix of native soil, organic matter such as peat, and inorganic material such as perlite or vermiculite in a 1:1:1 ration. There are indications that a backfill with native soil alone may be adequate.
6. The addition of fertilizer to backfill soil can cause root injury, and is therefore not recommended. If fertilizer must be added, a low rate should be used. Approximately 1.5 pounds of nitrogen per cubic yard of backfill is recommended for bare root plants, and 2.5 pounds of nitrogen per cubic yard of backfill for balled and burlapped trees.
7. The backfill should be gently tamped (but not compacted), and soaked for settling.
8. The soil should be slightly mounded to allow for settling; a ridge or dike around the perimeter of the hole can facilitate watering.

#L.3.

Appendix D Planting Standards

1. After selecting a suitable location, mark out a planting area that is 5 times the diameter of the planting ball. Use a rototiller or shovel to loosen and mix the soil in this entire area to a depth of about 12 inches.
2. In the center of the prepared area, dig a shallow hole to set the tree or shrub. The hole should allow the root ball to sit on solid ground rather than loose soil. Once the ball is set the hole, its upper surface should be level with the existing soil.
3. After the tree is properly situated, cut and remove the rope or wires holding the burlap in place and securing any part of the tree.
4. Backfill around the root area, and gently firm the soil to prevent major air pockets. Do not pack the soil. Water can be used to help the soil settle and prevent overpacking. Rake the soil even over the entire area, and cover it with 2 to 4 inches of mulch. Maintaining the mulch layer carefully will improve tree growth substantially.
5. Water berms or dikes are not recommended as they encourage abnormal root growth.
6. It is best not to stake the tree, but if wind is a problem or the tree starts to lean, support it with a flexible stake so the trunk will sway in the wind. The movement is necessary for building the trunk's strength. Remove the stake and wire after one growing season since leaving wire or string around the tree can cause death.
7. Do not wrap the trunk with "protective" tape. It will slow the tree's ability to adapt to the site and provide a home for insects. Tree bark needs air and sunlight in order to build a healthy protective sheath.

Appendix E Substantial Building Permits

Example 1

The 100% assessed value of the improvements of a 10,000 square foot shopping center is assessed by DeKalb County at \$250,000.

In January the owner is issued a permit in the amount of \$25,000 to replace heating and air conditioning equipment. 3 months later he is issued a permit in the amount of \$50,000 to replace the roof covering and add a false mansard roof.

Does this equate to a Substantial Building Permit?

$\$25,000 + \$50,000 = \$75,000$ (building permits 12 months)

$\$75,000 / \$250,000 = 30.00\%$ (less than 50%)

This case is not a substantial building permit.

Example 2

The 100% assessed value of the improvements of a 10,000 square feet shopping center is assessed by DeKalb County at \$250,000.

The owner decides to build phase 2 of the shopping center, which includes an additional 6,000 square feet of space. The low bid on the job is \$200,000.

Does this equate to a Substantial Building Permit?

$\$200,000 / \$250,000 = 80.00\%$ (greater than 50%)

Yes, this is a substantial building permit.

Example 3

A site is cleared and graded for a gas station but not developed therefore the counties assessed value of the improvements is \$0.

Two years later the owner applies for a building permit in the amount of \$500,000 for the construction of a gas station.

Does this equate to a Substantial Building Permit?

Yes, because the permit exceeds half of the value of the improvements.



Zoning and Land Development Regulations Rewrite

Chapter 27 | Zoning Ordinance

Public Review/Hearing Draft
May 30, 2013

Summary of Key Issues/Changes

This public review draft of Dunwoody's new zoning ordinance includes all material presented in modules 1, 2 and 3 and incorporates changes in response to previous reviews. The following table summarizes key issues and changes, with substantive changes made since the January 11 (2013) draft shown in underline text:

Topic Ordinance Sec	What we Heard	What we Did
O-I zoning "loop-hole" 27-2.60	"Loophole" should be closed once and for all	Deleted existing (confusing/contradictory) provisions regarding existing multi-unit residential being "conforming." Text now expressly states that they are nonconforming and subject to Article 29 , which provides much flexibility for owners.
Lot coverage in R districts 27-4.30-B	Need additional lot coverage flexibility in single-dwelling districts	Increased
Mixed use 27-5.20 27-5.10-B.7	Need to better accommodate mixed-use development	1. Added new CR-1 (commercial-residential) mixed-use district 2. Added residential as allowed use in OCR district
Dunwoody Village Overlay 27-7.20-I	Sidewalk and pedestrian zone requirements are confusing	<u>1. Rewrote provisions and added illustration</u> <u>4-2. Changed minimum mullion dimension from 1.25" to 0.75"</u>
Dunwoody Village Overlay 27-7.20-K	Need more intense, mixed -use, pedestrian-oriented approach for village core area	Added new CR-1 (commercial-residential) mixed-use base district (Sec. 27-5.10-B.7) and new form and design standards for DV-O district village core
Massage parlors 27-8.40-A.1	Need to define and regulate as "adult use"	Defined; now regulated the same as other "adult uses"
Tattoo parlors 27-8.40-A.2	Need to define and regulate as "adult use"	Defined; now regulated the same as other "adult uses"
Animal Care and Boarding 27-8.40-B	Don't allow chickens as companion animals	Defined "Animal, companion" in definitions section of ordinance
Gold Brokers 27-8.40-G.1	Need to define and regulate similar to pawnshops and check cashing	Defined; now regulated the same as checking cashing and other "convenient case businesses"
Community Gardens 27-9.50	Some limitations may be too strict and not reflect local practices	1. Removed reference to growing season and maximum ground cover plant height. 2. Removed minimum setback requirements for the garden (structures must be set back at least 10 feet). <u>2-3. Removed limitation on donations.</u>
Food Trucks 27-9.80	Simplify lot area requirements	<u>1. Draft revised to allow one food truck per 20,000 sq. ft. of site area (or fraction thereof)</u> <u>4-2. Incorporated minor wording changes RE site area requirements</u>
Residential infill 27-9.170-B	Consider supplementing existing infill height regulations with setback and other controls	Added contextual setback regulations
Home Occupations 27-10.30	Widely varying views: many commented that all home occupations should be allowed as of right; others (strongly) suggested that anything involving customer contact should require public review/approval.	1. Limit on number of customers present at one time has varied, but is now set at two 2. Teaching-related home occupations now permitted as of right; all other "type B" home occupations require administrative permit approval <u>2-3. Removed express prohibition of religious assembly.</u> <u>All regulations would still apply.</u>

Topic	What we Heard	What we Did
Ordinance Sec		
Residential com- posting 27-10.60	Some limitations may be too strict and not re- flect local practices	Increased allowed cubic volume of compost areas
Garage sales 27-11.30-A	Need basic regulations	Added new regulations
Shared parking 27-12.40-E	Uncomfortable with widespread use of shared parking	Draft now limits use of shared parking to those instances when at least 75% of required parking is provided on-site
Bicycle parking 27-12.50	Do not <i>require</i> bicycle parking	Turned proposed requirements into incentives (reductions in motor vehicle parking)
Off-site Parking 27-12.60	Clarify allowed location of off-site parking	Text revised to allow shared parking as of right in districts that permit the use served by parking. SLUP required in all other cases.
Neighbor meetings 27-18.40 27-19.40	Need greater neighbor notification for neighbor communication summary	Changed radius from 200 to 500 feet
Hearing notice 27-18.60 27-19.60	City should ensure adequate public notice even if not required by state law	Provisions have been revised to reflect the existing zoning ordinance, which far exceeds the notice requirements mandated by state law
Deferral of Action 27-17.110	Planning commission should have ability to defer action	Text has been revised to expressly allow deferral by PC and mayor/council
Reporting of admin approvals 27-23.100	Need more transparency regarding administra- tive approvals; cd director should report on ad- ministrative approvals to planning commission and council	Add requirement
DRAC Terms 27-26.50	Revise from 2 to 3 years	Changed has been made

Other edits and technical changes have also been incorporated into the draft document. As with previous drafts, we have attempted to identify substantive revisions through the use of footnotes and occasional [underline](#) (new/changed material) and ~~strikethrough~~ (deleted material) text. The absence of footnotes and identified [redline](#) changes is an indication that the provisions do not constitute a substantive modification, but most all of the provisions have been edited for internal consistency and clarity.

We look forward to your continued review and continued involvement in the rewrite project.

Contents

PART I: INTRODUCTORY PROVISIONS	i
Article 1 Legal Framework	1-1
Article 2 Transitional Provisions	2-1
Article 3 Zoning Map	3-1
PART II: ZONING DISTRICTS	i
Article 4 Residential Zoning Districts	4-1
Article 5 Nonresidential and Mixed-use Zoning Districts.....	5-1
Article 6 Special Purpose Zoning Districts.....	6-1
Article 7 Overlay Zoning Districts	7-1
PART III: USES AND USE-SPECIFIC REGULATIONS	i
Article 8 Use Classifications	8-1
Article 9 Supplemental Use Regulations.....	9-1
Article 10 Accessory Uses	10-1
Article 11 Temporary Uses	11-1
PART IV: GENERALLY APPLICABLE REGULATIONS	i
Article 12 Parking and Circulation	12-1
Article 13 Landscaping and Screening	13-1
Article 14 Outdoor Lighting	14-1
Article 15 Fences and Walls.....	15-1
Article 16 Miscellaneous Provisions	16-1
PART V: REVIEW AND APPROVAL PROCEDURES	i
Article 17 Common (Procedural) Provisions.....	17-1
Article 18 Amendments.....	18-1
Article 19 Special Land Use Permits	19-1
Article 20 Design Review	20-1
Article 21 Variances.....	21-1
Article 22 Special Exceptions	22-1
Article 23 Administrative Permits.....	23-1
Article 24 Appeals of Administrative Decisions	24-1
Article 25 Development Permits.....	25-1
PART VI: ADMINISTRATION AND ENFORCEMENT	i
Article 26 Review and Decision-making Bodies	26-1
Article 27 Inspections	27-1
Article 28 Enforcement and Penalties	28-1
Article 29 Nonconformities	29-1

PART VII: MEASUREMENTS, LANGUAGE AND DEFINITIONS.....i

Article 30	Measurements	30-1
Article 31	Rules of Language and Interpretation	31-1
Article 32	Definitions	32-1

PART I: INTRODUCTORY PROVISIONS

Article 1 Legal Framework1-1

27-1.10 Title and Components 1-1

27-1.20 Authority 1-1

27-1.30 Applicability..... 1-1

27-1.40 Effective Date 1-1

27-1.50 Purpose and Intent..... 1-1

27-1.60 General Prohibition 1-2

27-1.70 Minimum Requirements 1-2

27-1.80 Compliance with Other Laws..... 1-2

27-1.90 Conflicting Provisions 1-2

27-1.100 Severability..... 1-2

Article 2 Transitional Provisions.....2-1

27-2.10 General..... 2-1

27-2.20 Applications, Permits and Approvals..... 2-1

27-2.30 Violations Continue 2-2

27-2.40 Nonconformities 2-2

27-2.50 Expired, Obsolete and Converted Zoning Districts 2-2

27-2.60 Status of Multi-unit Residential Buildings in the O-I District 2-3

Article 3 Zoning Map.....3-1

27-3.10 Establishment..... 3-1

27-3.20 Maintenance and Updates 3-1

27-3.30 Interpretation of Zoning Maps 3-1

27-3.40 Split-zoned Lots 3-2

Article 1 Legal Framework

27-1.10 Title and Components

- 27-1.10-A.** The official title of this chapter (chapter 27) is the *Zoning Ordinance of the City of Dunwoody, Georgia*. For convenience, it is referred to throughout this chapter 27 as the “zoning ordinance.”
- 27-1.10-B.** The zoning ordinance is comprised of the text of this chapter and the official zoning maps, both of which are maintained in the community development department. The text and the maps together constitute the zoning ordinance.

27-1.20 Authority

This zoning ordinance is enacted pursuant to the city's authority to adopt plans and exercise the power of zoning granted by the Ga. Const. art. IX, §II, ¶ IV; by the city's authority to enact regulations and exercise powers granted by the Ga. Const. art. IX, §II, ¶¶ II and III; by authority granted by the state, including but not limited to, the City Charter, 2008 General Assembly Senate Bill 82 2008 Ga. Laws _____ et seq.; by O.C.G.A. §36-66-2(b); by the city's general police powers; and by other powers and authority provided by federal, state and local laws.

27-1.30 Applicability

- 27-1.30-A.** The regulations of this zoning ordinance apply to all buildings, structures, land and uses within the incorporated area of the city.
- 27-1.30-B.** All buildings and structures erected, all uses of land, water, buildings or structures established, all structural alterations or relocations of existing buildings, and all enlargements of, additions to, changes in and relocations of existing uses are subject to all regulations of this zoning ordinance that are applicable to the zoning district in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that comply with the regulations of this zoning ordinance are subject to all regulations of this zoning ordinance. Existing buildings, structures and uses that do not comply with the regulations of this zoning ordinance are authorized to continue, subject to the nonconformity regulations of [Article 29](#).

27-1.40 Effective Date

The provisions of this zoning ordinance become effective on and compliance with its provisions becomes mandatory beginning [Effective Date to be Inserted], unless otherwise expressly stated in a specific provision of the zoning ordinance.

27-1.50 Purpose and Intent

This zoning ordinance is enacted by the mayor and city council in order to promote the public health, safety, morals and general welfare of the residents of the city and to help implement relevant provisions of the comprehensive plan and other adopted plans and policies.

27-1.60 General Prohibition

No building or structure, and no use of any building, structure, land, or property, and no lot of record, may be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this zoning ordinance.¹

27-1.70 Minimum Requirements

In their interpretation and application, the provisions of this zoning ordinance must be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare.

27-1.80 Compliance with Other Laws

In addition to the requirements of this zoning ordinance, all uses and development must comply with all other applicable state and federal regulations, including requirements for licenses or permits.

27-1.90 Conflicting Provisions**27-1.90-A. State or Federal Regulations**

If the provisions of this zoning ordinance are inconsistent with those of the state or federal government, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.

27-1.90-B. Other City Regulations

If the provisions of this zoning ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision governs unless otherwise expressly stated.

27-1.90-C. Private Agreements and Covenants

1. This zoning ordinance is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning ordinance impose a greater restriction than imposed by a private agreement or covenant, the provisions of this zoning ordinance control.
2. Private restrictive covenants to which the city is not a party are not regulated by or enforced by the city.

27-1.90-D. Repeal of Conflicting Ordinances

All other ordinances or resolutions in conflict with this zoning ordinance are hereby repealed. This provision does not repeal conditions of use, operation, or site development accompanying zoning approvals or permits issued under previous zoning ordinances or resolutions. Modification or repeal of past conditions of approval may be accomplished as authorized and provided by this zoning ordinance.

27-1.100 Severability

The several provisions of this zoning ordinance are separable in accordance with the following rules:

¹ Eliminated the following (redundant) provision: “No use of any land, building, structure or property is allowed unless expressly and specifically authorized in the subject zoning district.”

- 27-1.100-A.** If any court of competent jurisdiction adjudges any section or provision of this zoning ordinance to be invalid, such judgment does not affect the validity or continued application of zoning ordinance as a whole or any section or provision other than the sections or provisions specifically adjudged to be invalid.
- 27-1.100-B.** If any court of competent jurisdiction adjudges as invalid the application of any section or provision of this zoning ordinance to a particular property, building or structure, such judgment does not affect the application of the section or provision to any other property, building or structure.²

² The existing zoning ordinance includes two severability clauses. The one in Sec. 27-7 is proposed to be deleted.

Article 2 Transitional Provisions

27-2.10 General

The provisions of this article address the transition from the previous zoning ordinance (the one in effect before the effective date specified in Sec. [27-1.40](#)) to this zoning ordinance.

27-2.20 Applications, Permits and Approvals

- 27-2.20-A.** Any building, development or structure for which a building permit was issued or a complete permit application had been accepted for processing before [Insert Effective Date] may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning ordinance. If building is not commenced and completed within the time allowed under the original building permit, then the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- 27-2.20-B.** Variances, special exceptions and special permits lawfully authorized and granted prior to effective date specified in Sec. [27-1.40](#) remain valid after the effective date specified in Sec. [27-1.40](#), provided the terms of the authorization are met.
- 27-2.20-C.** Applications for variances, special exceptions and special land use permits that were submitted in complete form and are pending approval on the effective date specified in Sec. [27-1.40](#) must be reviewed wholly under the terms of the zoning ordinance in effect immediately before the effective date specified in Sec. [27-1.40](#). Building permits for construction and development approved under such zoning approvals may be issued in accordance with Sec. [27-2.20-D](#).
- 27-2.20-D.** Building permits may be issued for construction or development approved under Sec. [27-2.20-B](#) and Sec. [27-2.20-C](#) even if such building, development or structure does not fully comply with provisions of this zoning ordinance. If building is not commenced and completed within the time allowed under the building permit, then the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- 27-2.20-E.** When a use classified as a special use under this zoning ordinance exists as a special use, permitted use, nonconforming use or a lawful use by court decree on the effective date specified in Sec. [27-1.40](#), such use will be considered a lawfully established special use under this zoning ordinance. When any amendment to this zoning ordinance changes the classification of a permitted use to a special use, any use lawfully established before such amendment will be considered a lawfully established special use after the effective date of such amendment. A lawfully established existing use that is not allowed as a special use or permitted use in the district in which the use is now located will be considered a nonconforming use and will be subject to all applicable regulations of [Article 29](#).

27-2.30 Violations Continue

- 27-2.30-A.** Any violation of the previous zoning ordinance will continue to be a violation under this zoning ordinance and be subject to penalties and enforcement under [Article 28](#).
- 27-2.30-B.** If the use, development, construction or other activity that was a violation under the previous ordinance complies with the regulations of this zoning ordinance, enforcement action will cease, except for collecting penalties for violations that occurred before the effective date specified in Sec. [27-1.40](#).
- 27-2.30-C.** The adoption of this zoning ordinance does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous ordinance that occurred before the effective date specified in Sec. [27-1.40](#).

27-2.40 Nonconformities

- 27-2.40-A.** Any nonconformity under the previous zoning ordinance will also be nonconformity under this zoning ordinance, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist.
- 27-2.40-B.** If a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning ordinance, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.
- 27-2.40-C.** A violation under previously applicable zoning ordinances does not achieve (lawful) nonconforming status under this zoning ordinance merely by repeal of the previous zoning ordinance.

27-2.50 Expired, Obsolete and Converted Zoning Districts

- 27-2.50-A. R-CH Zoning**

Lots classified in the R-CH zoning district by the DeKalb County zoning code on April 12, 1999, before the existence of the city, will continue to be classified in the R-CH district. The R-CH zoning district regulations in effect in the county on April 12, 1999, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CH. Lots zoned R-CH may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).
- 27-2.50-B. R-CD Zoning**

Lots classified in the R-CD zoning district by the DeKalb County zoning code on April 12, 1999, before the existence of the city, will continue to be classified in the R-CD zoning district. The R-CD zoning district regulations in effect in the county on April 12, 1999, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CD. Lots zoned R-CD may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).
- 27-2.50-C. TND Zoning**

Lots classified in the TND zoning district by the DeKalb County zoning code after April 13, 1999, before the existence of the city, will continue to be classified in the TND zoning district. The TND zoning district regulations in effect in the county on April 27, 2004, and the applicable existing conditions of zoning, govern the development of the

lots identified in this subsection. Lots zoned TND may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).

27-2.50-D. Conversion of Former PS Zoning³

The former PS zoning district is deleted and replaced with the NS zoning district designation. PS zoning existing on the date of adoption of this section is converted to NS zoning.

27-2.60 Status of Multi-unit Residential Buildings in the O-I District

Multi-unit residential buildings that exist on O-I zoned lots are considered nonconforming uses under the nonconformity regulations of Article 29.

~~Except as expressly provided in this zoning ordinance, lots that were zoned O-I, have submitted a complete application and otherwise lawfully applied for or have been issued a land disturbance permit or building permit for the construction or redevelopment of a multi-unit residential building that is 3 or more stories in height (sometimes referred to as a “high-rise apartment development”) on or before the effective date of the ordinance from which this section is derived will continue to be classified in the O-I district and will be allowed to develop and maintain 3-story or taller multi-unit residential buildings that are approved as required by law and that comply with all applicable conditions of zoning and any other applicable provisions of this zoning ordinance.~~

~~Those O-I-zoned lots occupied by 3-story or taller Those O-I-zoned lots with 3-story or taller multi-unit residential buildings in lawful existence before the enactment of this section also have the right to make interior structural alterations and exterior maintenance alterations within the limits of the building regulations of the municipal code, but no enlargement, extension or movement of the building is allowed.~~

~~A multi-unit residential building covered by this section that has been damaged by fire or other cause may be reconstructed and used as it was before the damage if the reconstruction is completed within 5 years of the date of the damage.~~

³ This PS-to-NS district conversion provision can probably be deleted.

Article 3 Zoning Map

27-3.10 Establishment

The location and boundaries of the zoning districts established by this zoning ordinance are depicted on and maintained as part of the city's geographic information system (GIS), under the direction of the community development director. This "zoning" geographic coverage layer constitutes the City of Dunwoody's official zoning map. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this zoning ordinance. It is as much a part of this zoning ordinance as if actually depicted within its pages.

27-3.20 Maintenance and Updates

The community development director is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments. No unauthorized person may alter or modify the official zoning map. The community development director may authorize printed copies of the official zoning map to be produced, and must maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

27-3.30 Interpretation of Zoning Maps

- 27-3.30-A.** The community development director is the final authority in determining the current zoning status of land, buildings and structures in the city.⁴
- 27-3.30-B.** Where uncertainty exists regarding the boundaries of zoning districts as shown on the official zoning maps, the following rules apply:
 1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys must be construed to follow centerlines of rights-of-way or prescriptive easements. In case of closure of a street or alley, or vacation of any easement, the boundary must be construed as remaining at its previous location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary must be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line.
 2. Boundaries indicated as approximately following platted lot lines must be construed as following those lot lines.
 3. Boundaries indicated as following city limit lines must be construed as following the city limits.
 4. Boundaries indicated as following railroad lines must be construed to be midway in the railroad right-of-way.

⁴ This is a revision to Prior Ord. Sec. 27-14.

5. Boundaries indicated as following shorelines of bodies of water must be construed to follow those shorelines. Boundaries indicated as approximately following the centerlines of creeks, streams, rivers, or other predominantly linear bodies of water must be construed to follow those centerlines.
 6. Boundaries indicated as parallel to or concentric with, or extensions of features indicated in paragraphs 27-3.30-B.1 through 27-3.30-B.5, must be construed to follow those features. Distances and dimensions not specifically indicated on the zoning maps must be determined from the zoning maps by the community development director.
 7. Where areas appear to be unclassified on the zoning maps, and classification cannot be established by the above rules and there is no other evidence of its existing or past classification, such areas must be considered to be classified R-100 until action is taken by the mayor and city council to amend the zoning maps.
- 27-3.30-C.** Where uncertainties continue to exist or further interpretation is required beyond that presented in the above subsections, the question must be presented to the mayor and city council to enact a clarifying ordinance and mayor and city council's action must be recorded on the zoning maps.

27-3.40 Split-zoned Lots

- 27-3.40-A.** The zoning map may not be amended to classify a single parcel of land into 2 or more base zoning districts. This provision does not apply to overlay zoning districts.
- 27-3.40-B.** Parcels may not be divided to create a split-zoned parcel of land (into more than one base zoning district classification). This provision does not apply to overlay zoning districts.⁵
- 27-3.40-C.** If an existing parcel of land is split into 2 or more zoning districts, each such portion of the split-zoned parcel may be used only for purposes allowed within the zoning district that each such portion is classified. No principal or accessory use of land, building or structures, and no use or building or structure authorized by ~~special~~ administrative permit, special land use permit, or special exception, is allowed unless the use, building or structure is expressly authorized or permitted within the subject zoning district.

⁵ "A" and "B" are new provisions.

PART II: ZONING DISTRICTS

Article 4	Residential Zoning Districts.....	4-1
27-4.10	General.....	4-1
27-4.20	Uses Allowed.....	4-2
27-4.30	Lot and Building Regulations.....	4-3
27-4.40	Other Regulations	4-7
Article 5	Nonresidential and Mixed-use Zoning Districts	5-1
27-5.10	General.....	5-1
27-5.20	Uses Allowed.....	5-3
27-5.30	Lot and Building Regulations.....	5-6
27-5.40	Other Regulations	5-7
Article 6	Special Purpose Zoning Districts	6-1
27-6.10	PC, Perimeter Center District	6-1
27-6.20	PD, Planned Development District	6-1
Article 7	Overlay Zoning Districts.....	7-1
27-7.10	General.....	7-1
27-7.20	–DVO, Dunwoody Village Overlay	7-1

Article 4 Residential Zoning Districts

27-4.10 General

27-4.10-A. The Districts

The city's residential zoning districts are listed below. When this zoning ordinance refers to "residential" zoning districts, it is referring to these districts.

	Zoning District ⁶	Map Symbol
Detached Single-dwelling	Single-dwelling Residential-150	R-150
	Single-dwelling Residential-100	R-100
	Single-dwelling Residential-85	R-85
	Single-dwelling Residential-75	R-75
	Single-dwelling Residential-60	R-60
	Single-dwelling Residential-50	R-50
Attached Single-dwelling	Single-dwelling Residential-A5	RA-5
	Single-dwelling Residential-A8	RA-8
Multi-dwelling	Multi-dwelling Residential-150	RM-150
	Multi-dwelling Residential-100	RM-100
	Multi-dwelling Residential-85	RM-85
	Multi-dwelling Residential-75	RM-75
	Multi-dwelling Residential-HD	RM-HD

27-4.10-B. Purposes

1. General

Dunwoody's residential zoning districts are primarily intended to create, maintain and promote a variety of housing and living opportunities for individual households and to help ensure consistency with the comprehensive plan. While the districts primarily accommodate residential use types, some nonresidential uses are also allowed, as indicated in the use table of Sec. [27-4.2027-4.20](#).

2. Single-dwelling (R) Districts

When this zoning ordinance refers to "R" zoning districts, it is referring to the single-dwelling zoning districts: R-150, R-100, R-85, R-75, R-60, R-50, RA-5 and RA-8. The primary purposes of the R districts are as follows:⁷

- a. To help protect the established character of existing neighborhoods;
- b. To accommodate infill development that is in keeping with character of existing neighborhoods; and

⁶ R-200, R-190, R-DT and RMH are proposed to be deleted. No land is currently classified in any of these districts.

⁷ All the existing single-dwelling district purpose statements are identical. This generalized statement replaces them all.

- c. To accommodate uses and structures designed to serve the housing, recreational, educational, religious and social needs of the neighborhood.

3. Multi-dwelling (RM) Districts

When this zoning ordinance refers to “RM” zoning districts, it is referring to the multi-dwelling zoning districts: RM-150, RM-100, RM-85, RM-75 and RM-HD. The primary purposes of the RM, multi-dwelling zoning districts are as follows:⁸

- a. To accommodate the development of multi-dwelling residential development in areas designated for such development by the comprehensive plan;
- b. To accommodate infill development that is in keeping with the physical character of existing neighborhoods; and
- c. To accommodate uses and structures designed to serve the housing, recreational, educational, religious and social needs of the neighborhood.

27-4.20 Uses Allowed

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See Sec. [27-8.10-D](#) for information about how to interpret the use table.⁹

USES	DISTRICTS										Supplemental Regulations		
	R-150	R-100	R-85	R-75	R-60	R-50	RA-5	RA-8	RM-150	RM-100		RM-85	RM-75
<i>P = use permitted as of right A = administrative permit req'd E = special exception req'd S = special land use permit req'd</i>													
RESIDENTIAL													
Household Living													
Detached house			P				P			P			27-9.170
Attached house			—				P			P			27-9.20
Multi-unit building			—				—			P			27-9.120
Group Living													
Convent or monastery			S				S			S			
Fraternity or sorority			—				—			P			
Nursing home			—				—			P			
Personal care home, registered (1–3 persons)			P				P			P			
Personal care home, family (4–6 persons)			P				P			P			
Personal care home, group (7–15 persons)			—				—			P			
Personal care home, congregate (16 or more)			S ¹⁰				—			P ¹¹			27-9.150
Rooming house			—				—			P			
Shelter, homeless			—				—			S			27-9.100
Supportive living			—				—			P			
Transitional housing facility			—				—			S			27-9.100

⁸ The existing multi-dwelling district purpose statements are nearly identical. This generalized statement replaces them all.

⁹ This use table retains the use regulation approach of the current ordinance. Substantive changes are indicated with footnotes or underline (new/revised) or ~~strikethrough~~ (deleted) text.

¹⁰ Congregate personal care homes are currently allowed as a special use only in the R-100 district, not the other R districts. Sec. [27-9.150](#) limits such uses only to campus sites of at least 25 acres.

¹¹ Congregate personal care homes are not currently permitted in RM-150.

	DISTRICTS													
USES	R-150	R-100	R-85	R-75	R-60	R-50	RA-5	RA-8	RM-150	RM-100	RM-85	RM-75	RM-HD	Supplemental Regulations
P = use permitted as of right A = administrative permit req'd E = special exception req'd S = special land use permit req'd														
QUASI-PUBLIC & INSTIUTIONAL														
Day Care														
Day care facility, adult (6 or fewer persons)			S				S		P					27-9.70
Day care facility, adult (7 or more)			—				—		P					27-9.70
Day care facility, child (6 or fewer persons)			S				S		P					27-9.70
Day care facility, child (7 or more)									P					27-9.70
Educational Services														
Kindergarten			—				—		P					27-9.110
Schools, private elementary, middle or senior high			S				S		S					27-9.180
Place of Worship			S				S		S					27-9.160
Utility Facility, Essential			E				E		E					27-9.210
COMMERCIAL														
Communication Services														
Telecommunication antenna, co-located			P				P		P					27-9.200
Telecommunication tower			—				—		S ¹²					27-9.200
Funeral and Interment Services														
Cemetery, columbarium, or mausoleum			S				S		S					
Lodging														
Bed and breakfast			S				S		S					27-9.30
Sports and Recreation, Participant														
Neighborhood Recreation Club			S				S		S					
AGRICULTURE														
Agriculture														
Community Garden			P				P		P					27-9.50
Livestock			P				—		—					
Stables			P				—		—					

27-4.30 Lot and Building Regulations

27-4.30-A. General

This section establishes basic lot and building regulations that apply in residential zoning districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that stated minimums and maximums can be achieved on every lot. Other factors, such as topography, the presence of protected resources, off-street parking and other factors may work to further limit actual building and development potential.

¹² Telecommunication towers are allowed in RM districts under the current ordinance. This was inadvertently omitted from the first draft of Module 2.

27-4.30-B. Single-Dwelling Districts

The lot and building regulations of the following table apply to all principal and accessory uses allowed in single-dwelling residential districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance (see also Figure 4-1).¹³

	Regulation	R-150	R-100	R-85	R-75	R-60	R-50	RA-5	RA-8
L1	Minimum Lot Area (sq. ft.)	43,560	15,000	12,000	10,000	8,000	6,000	NA[1]	NA[1]
L2	Minimum Lot Frontage (ft.) [2]	150	100	85	75	60	50 ¹⁴	100[3]	100[3]
	Maximum Density (dwelling units per acre)	NA	NA	NA	NA	NA	NA	5	8
	Minimum Building/Structure Setbacks (ft.) [4]								
S1	Street, Front and Side	45[5]	35[5]	35[5]	30[5]	30[5]	5[6]	5[6]	5[6]
S2	Side, Interior	20	10	8.5	7.5	7.5	7.5	15	15
S3	Side, Interior (accessory buildings/structures)	10	10	10	10	10	10	10[7]	10[7]
S4	Rear	40	40	40	40	40	30	30	30
S5	Rear (accessory buildings/structures)	10	10	10	10	10	10	10	10
C	Maximum Lot Coverage (%)	25 30	35 40	35 40	35 40	35 40	35 40	50	50
	Maximum Building Height (ft.)								
	Principal Building	35	35	35	35	35	35	35	35
	Accessory Buildings/Structures ¹⁵	20	20	20	20	20	20	20	20
	Maximum Accessory Building Floor Area (sq. ft.)								
	Lot area = 0 to 0.999 acres	900	900	900	900	900	900	900	900
	Lot area = 1 to 4.999 acres	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
	Lot area = 5 to 9.999 acres	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
	Lot area = 10 or more acres	No max.	No max.	No max.	No max.	No max.	No max.	No max.	No max.

- [1] Detached houses in RA-5 and RA-8 districts are subject to the lot and building regulations of the R-50 district.
- [2] Minimum lot frontage on cul-de-sac lots is 35 feet. Minimum lot width at the required street setback must equal the required minimum frontage requirement for non-cul-de-sac lot (e.g., 100 feet in R-100).
- [3] Minimum lot frontage applies to attached house projects, not individual dwelling units within the project.
- [4] [Corner lots are subject to street setbacks along all street frontages and to interior side setbacks along all other lot lines. Minimum rear \(accessory\) setback on reverse corner lot is 25 feet.](#)
- [5] Add 5 feet for minimum setbacks from arterial streets.¹⁶
- [6] Street-facing garage facades must be setback at least 20 feet from back of curb or back of sidewalk, whichever is greater.
- [7] [Interior side setback applies only to end units in attached house projects. No interior side setback required for units in attached projects with common or abutting walls.](#)

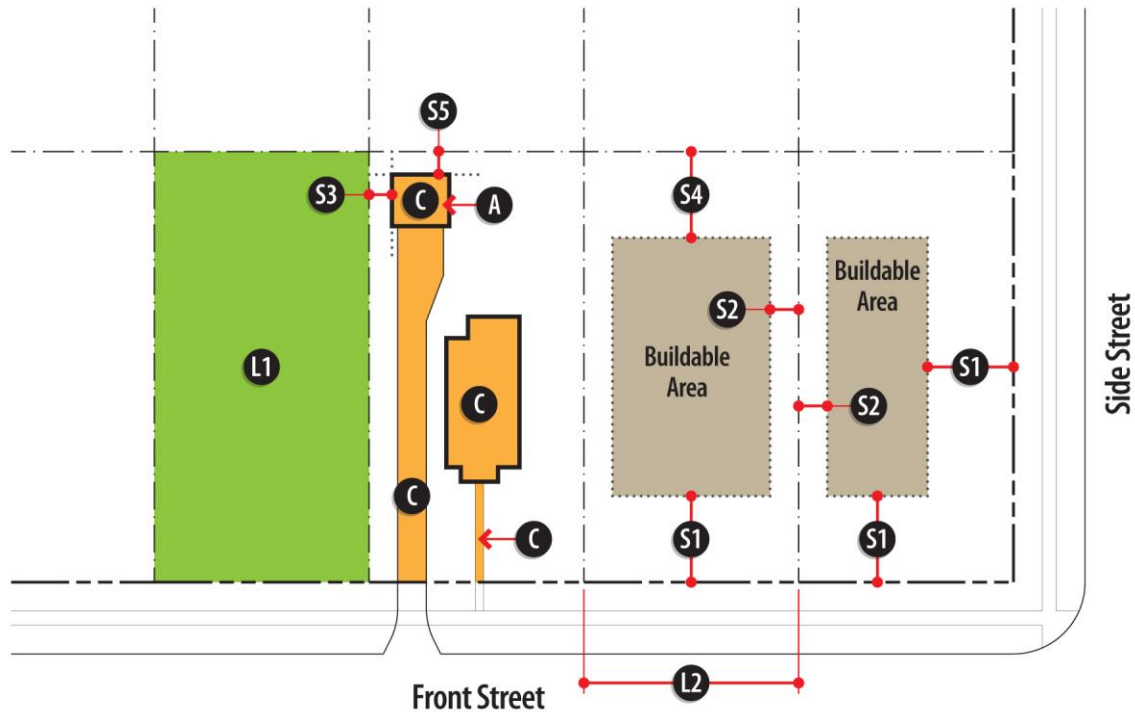
¹³ [Article 30](#) will include rules governing how setbacks, building height and other lot and building dimensions are measured. It will also include exceptions to such rules (e.g., features allowed to encroach into setbacks or project above maximum height).

¹⁴ Proposed change: currently 60 feet.

¹⁵ Eliminated “or the height of the principal structure, whichever is less.”

¹⁶ Existing ordinance includes different street setbacks from “major thoroughfares” and “minor thoroughfares.” The “minor thoroughfare” regulations have been used here.

Figure 4-1: Lot and Building Regulations Diagram, Single-Dwelling Residential Districts

**27-4.30-C. Multi-Dwelling Districts**

The lot and building regulations of the following table apply to all principal and accessory uses allowed in multi-dwelling residential districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance (see also Figure 4-2).¹⁷

Regulation		MULTI-DWELLING DISTRICTS				
		RM-150	RM-100	RM-85	RM-75	RM-HD
L1	Minimum Lot Area (sq. ft.)					
	Detached House	6,000	6,000	6,000	6,000	6,000
	Attached House	NA	NA	NA	NA	NA
	2-unit Multi-unit Building	<u>9,000</u>	<u>9,000</u>	<u>9,000</u>	<u>9,000</u>	<u>9,000</u>
	3-unit Multi-unit Building	<u>12,000</u>	<u>12,000</u>	<u>12,000</u>	<u>12,000</u>	<u>12,000</u>
	4+ unit Multi-unit Building	87,120	87,120	87,120	87,120	87,120
	Maximum Density [1] (dwelling units per acre)	6	12	14	18	30
L2	Minimum Lot Frontage (ft.)					
	Detached Houses [2]	60	60	60	60	60
	Attached House	<u>100[3]</u>	<u>100[3]</u>	<u>100[3]</u>	<u>100[3]</u>	<u>100[3]</u>
	Two-unit Building	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>
	Three-unit Building	<u>85</u>	<u>85</u>	<u>85</u>	<u>85</u>	<u>85</u>
	Multi-dwelling (4+ unit) Buildings	150	100	100	100	100
	Minimum Building/Structure Setbacks (ft.) [4]					
	Detached & Attached Houses, 2-unit and 3-unit Buildings					

¹⁷ [Article 30](#) will include rules governing how setbacks, building height and other lot and building dimensions are measured. It will also include exceptions to such rules (e.g., features allowed to encroach into setbacks or project above maximum height).

	Regulation	MULTI-DWELLING DISTRICTS				
		RM-150	RM-100	RM-85	RM-75	RM-HD
S1	Street, Front	30	30	30	30	30
S2	Street, Side ^[5]	15	15	15	15	15
S3	Side, Interior	7.5	7.5	7.5	7.5	7.5
S4	Side, Interior (accessory buildings/structures)	10	10	10	10	10
S5	Rear	30	30	30	30	30
S6	Rear (accessory buildings/structures)	10	10	10	10	10
	Multi-unit (4+ unit) Buildings					
S1	Street, Front and Side	35 ¹⁸	35	35	35	35 ¹⁹
S3	Side, Interior	20[6]	20[6]	20[6]	20[6]	20[6]
S4	Side, Interior (accessory buildings/structures)	10	10	10	10	10
S5	Rear ^[7]	40[4]	40[4]	40[4]	40[4]	40[4]
S6	Rear (accessory buildings/structures) ^[7]	10	10	10	10	10
C	Maximum Lot Coverage (%)	35	35	35	35	65
	Maximum Building Height (ft.)					
	Detached House, Two-unit or Three-unit Building	35	35	35	35	35
	Multi-dwelling (4+unit) Building ²⁰					
	As of right	35	35	35	35	35
	With approval of fire rescue service	48	48	48	48	60
	Accessory Buildings/Structures	20	20	20	20	20
	Maximum Accessory Building Floor Area (sq. ft.)					
	Lot area = 0 to 0.999 acres	900	900	900	900	900
	Lot area = 1 to 4.999 acres	1,200	1,200	1,200	1,200	1,200
	Lot area = 5 to 9.999 acres	2,000	2,000	2,000	2,000	2,000
	Lot area = 10 or more acres	No max.	No max.	No max.	No max.	No max.

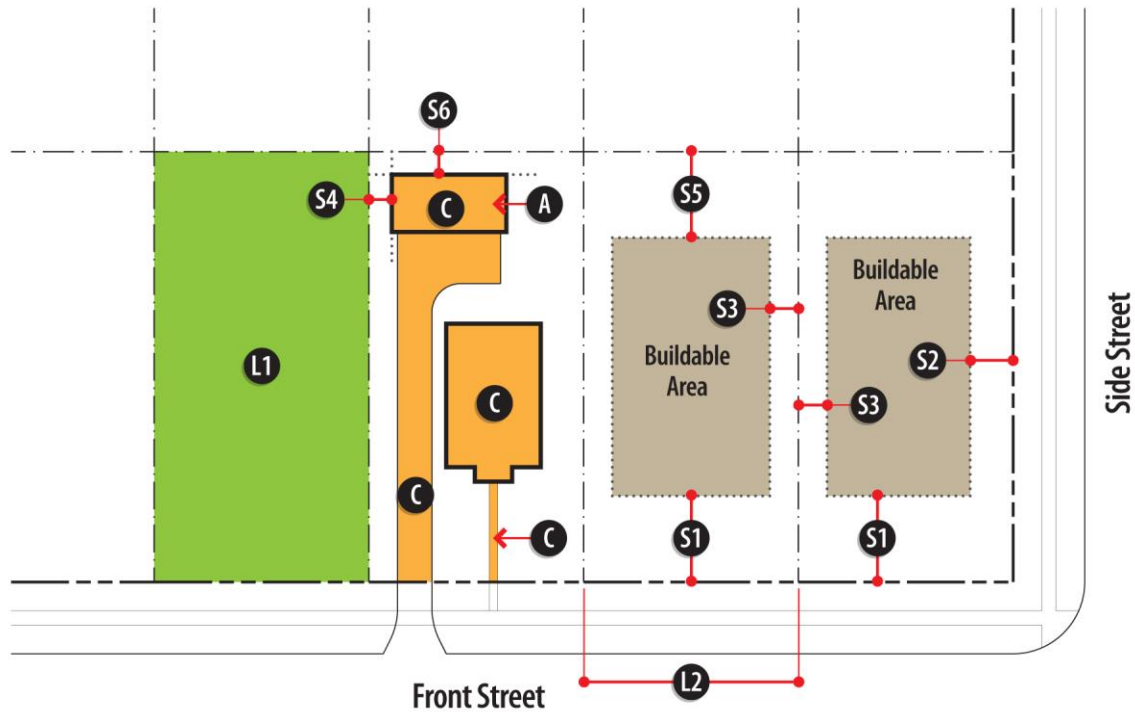
- [1] Applies only to attached house projects and multi-unit buildings with 4 or more dwelling units.
- [2] Minimum lot frontage for detached houses on cul-de-sac lots is 35 feet. Minimum lot width at the required street setback must equal the required minimum frontage requirement for non-cul-de-sac lot (e.g., 60 feet in RM-150).
- [3] [Minimum lot frontage applies to attached house projects, not to individual dwelling units or lots within the project.](#)
- [4] See also the building spacing regulations of Sec. [27-9.20](#).
- [5] [Interior side setback applies only to end units in attached house projects. No interior side setback required for units in attached projects with common or abutting walls.](#)
- [6] Minimum 50 feet abutting any single-dwelling residential (R) zoning district.
- [7] [Corner lots are subject to street setbacks along all street frontages and interior side setbacks along all other lot lines.](#)

¹⁸ This is a change. Current ordinance requires 45-foot street setback. Using a more typical 35-foot street setback for RM districts may help to create a more consistent streetscape and not force buildings to the rear where they would likely have greater impacts for abutting neighbors.

¹⁹ This is a change. Current ordinance requires 50-foot street setback. Using a more standard 35-foot street setback for RM districts may help to create a more consistent streetscape and not force buildings to the rear where they would likely have greater impacts for abutting neighbors.

²⁰ Existing multi-dwelling building height limits are expressed in “stories.” This draft converts them to feet using 35 feet for 3-story, 48 feet for 4-story and 60 feet for 5-story.

Figure 4-2: Lot and Building Regulations Diagram, Multi-Dwelling Residential Districts

**27-4.40 Other Regulations**

Uses and development in residential zoning districts may be subject to other regulations and standards, including the following.

- 27-4.40-A. Nonconformities**
See [Article 29](#).
- 27-4.40-B. Accessory Uses and Structures**
See [Article 10](#).
- 27-4.40-C. Parking**
See [Article 12](#).
- 27-4.40-D. Landscaping and Screening**
See [Article 13](#).
- 27-4.40-E. Signs**
See [Chapter 20](#) of the municipal code.
- 27-4.40-F. Temporary Uses**
See [Article 11](#).
- 27-4.40-G. Outdoor Lighting**
See [Article 14](#).

Article 5 Nonresidential and Mixed-use Zoning Districts

27-5.10 General

27-5.10-A. The Districts

The city's nonresidential and mixed-use zoning districts are listed below.

	Zoning District ²¹	Map Symbol
Office	Office-Institution	O-I
	Office-Institution-Transitional	O-I-T
	Office –Distribution	O-D
	Office-Commercial-Residential	OCR
Commercial	Neighborhood Shopping	NS
	Local Commercial	C-1
	<u>Commercial-Residential Mixed-Use</u>	<u>CR-1</u>
	General Commercial	C-2
Industrial	Industrial	M

27-5.10-B. Purposes

1. General

The nonresidential and mixed-use districts are generally intended to promote consistency with the comprehensive plan and provide opportunities for shopping, employment, entertainment and living.

2. Office-Institution and Office-Institution-Transitional

The primary purposes of the O-I and O-I-T districts are as follows:

- To provide convenient locations for office and institutional uses;
- To provide locations for the development of cultural, recreational, educational and health service facilities; and
- To limit building heights to 2 stories in O-I-T zoned areas adjacent to single-dwelling residential districts.

3. Office-Distribution

The primary purpose of the O-D district is to provide convenient locations for office and distribution establishments.

4. Office-Commercial-Residential

The primary purposes of the OCR district are as follows:

- To provide for economic development within the city through redevelopment of parcels of land that have been used in the past for commercial and

²¹ R-200, R-190, R-DT and RMH are proposed to be deleted. No land is currently classified in any of these districts.

light industrial uses but that have become obsolete and now offer an opportunity for establishing new moderate-intensity mixed-use developments consisting of a combination of office, commercial and residential uses;

- b. To promote redevelopment and new development in an environment that is pedestrian-oriented and that provides employment, shopping, entertainment and living opportunities in close proximity thereby reduces auto dependency; and
- c. To encourage the conversion of vacant commercial and industrial buildings into mixed-use projects.

5. Neighborhood Shopping

The primary purposes of the NS district are as follows:

- a. To provide convenient neighborhood retail shopping and service areas within the city;
- b. To provide for the development of new neighborhood shopping districts;
- c. To help ensure that the size and scale of neighborhood shopping centers and individual uses within shopping centers are compatible with the scale and character of surrounding neighborhoods; and
- d. To accommodate uses designed to serve the convenience shopping and service needs of the immediate neighborhood.

6. Local Commercial

The primary purposes of the C-1 district are as follows:

- a. To provide convenient local retail shopping and service areas within the city;
- b. To provide for the development of new local commercial districts; and
- c. To accommodate uses designed to serve the convenience shopping and service needs of groups of neighborhoods.

7. Commercial-Residential Mixed-use

The primary purposes of the CR-1 district are as follows:

- a. To provide convenient local retail shopping and service areas within a mixed-use (commercial-residential) setting;
- b. To provide for the development of new commercial-residential mixed-use districts; and
- c. To promote development patterns that accommodate residential, employment and entertainment within a walkable, mixed-use environment.

8. General Commercial

The primary purposes of the C-2 district are as follows:

- a. To provide convenient general business and commercial service areas within the city;
- b. To provide for the development of new general commercial districts; and
- c. To accommodate uses designed to serve the general business and commercial service needs of the city.

9. Industrial

The primary purposes of the M district are as follows:

- a. To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment;
- b. To help ensure that establishments operate so as to not create adverse noise and other impacts on nearby residential, office, commercial and mixed-use districts; and
- c. To help ensure that M districts are located in areas with access to major arterials and freeways.

27-5.20 Uses Allowed

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See [27-8.10-D](#) for information about how to interpret the use table.²²

USES	O-I	O-I-T	O-D	O-CR	NS	C-1	<u>CR-1</u>	C-2	M	Supplemental Regulations
<i>P = use permitted as of right A = administrative permit req'd E = special exception req'd S = special land use permit req'd</i>										
RESIDENTIAL										
Household Living										
Detached house	–	P	–	–	–	–	<u>=</u>	–	–	27-9.170
Multi-unit building	=S	–	–	<u>S</u>	–	–	<u>S</u>	–	–	
Mixed-use building, vertical	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>=</u>	<u>=</u>	
Group Living										
Convent and monastery	P	P	–	P	–	–	<u>=</u>	–	–	27-9.160
Fraternity house, sorority house or residence hall	P	–	–	–	–	–	<u>=</u>	–	–	
Nursing home	P	P	–	–	–	–	<u>=</u>	–	P	
Personal care home, registered (1–3 persons)	–	–	P	–	P	P	<u>P</u>	P	–	
Personal care home, family (4–6 persons)	–	–	P	–	P	P	<u>P</u>	P	–	
Personal care home, group (7–15 persons)	P	P	P	–	P	P	<u>P</u>	P	–	
Personal care home, congregate (16 or more)	P	S	P	–	P	P	<u>P</u>	P	–	
Shelter, homeless	S	S	–	–	–	P	<u>P</u>	P	–	27-9.100
Transitional housing facility	S	S	–	–	–	P	<u>P</u>	P	–	27-9.100

²² This use table retain the use regulation approach of the current ordinance. Substantive changes are indicated with footnotes or underline (new/revised) or ~~strikethrough~~ (deleted) text.

USES	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M	Supplemental Regulations
QUASI-PUBLIC & INSTITUTIONAL										
Ambulance Service	–	–	–	–	–	P	<u>P</u>	<u>P</u>	P	
Club or Lodge, Private	P	P	P	–	–	P	<u>P</u>	P	P	
Cultural Exhibit	P	P	P	–	–	P	<u>P</u>	P	–	
Day Care										
Day care facility, adult (6 or fewer persons)	–	–	P	–	–	–	<u>–</u>	–	–	27-9.70
Day care center, adult (7 or more)	–	–	P	–	–	–	<u>–</u>	–	–	
Day care facility, child (6 or fewer persons)	–	–	P	–	–	–	<u>–</u>	–	–	
Day care center, child (7 or more)	P	P	P	P	P	P	<u>P</u>	<u>P</u>	P	
Educational Services										
College or university	P	P	P	–	–	–	<u>–</u>	–	–	
Kindergarten	–	–	P	P	<u>P</u>	P	<u>P</u>	<u>P</u>	–	27-9.110
Research and training facility, college or university affiliated	P	P	P	–	–	–	<u>–</u>	–	P	
School, private elementary, middle or senior high	P	P	P	P	–	P	<u>P</u>	P	P	27-9.180
School, specialized non-degree	P	P	P	P	–	P	<u>P</u>	P	P	
School, vocational or trade	P	P	P	–	–	P	<u>P</u>	P	P	
Hospital	P	–	–	–	–	–	<u>–</u>	–	–	
Place of Worship	P	P	P	P	P	P	<u>P</u>	P	P	27-9.160
Utility Facility, Essential	E	E	P	E	E	P	<u>P</u>	P	P	27-9.210
COMMERCIAL										
Adult Use										
Adult service facility	–	–	–	–	–	–	<u>–</u>	P	P	
Body art service								<u>P</u>	<u>P</u>	
Sexually oriented business	P	–	–	P	–	–	<u>–</u>	P	P	27-9.190
Animal Services										
Animal care / boarding	–	–	–	<u>S</u>	<u>S</u>	P	<u>P</u>	P	P	27-9.10
Animal grooming	–	–	–	P	P	P	<u>P</u>	P	P	27-9.10
Animal hospital/veterinary clinic	–	–	–	P	P	P	<u>P</u>	P	P	27-9.10
Communication Services										
Radio and television broadcasting stations	P	P	P	–	–	P	<u>P</u>	P	P	
Recording studios	P	P	P	–	–	P	<u>P</u>	P	P	
Telecommunication tower	A	–	A	–	S	A	<u>A</u>	A	A	27-9.200
Telecommunication antenna, co-located ²³	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	27-9.200
Construction and Building Sales and Services										
Building or construction contractor	–	–	–	–	–	–	<u>–</u>	P	P	
Commercial greenhouse or plant nursery	–	–	–	–	–	–	<u>–</u>	P	P	
Electrical, plumbing and heating supplies and services	–	–	–	–	–	P	<u>P</u>	–	P	
Lumber, hardware or other building materials establishment	–	–	–	–	–	P	<u>P</u>	P	P	
Eating and Drinking Establishments										
Restaurant, accessory to allowed office or lodging use	<u>P</u>	–	–	P	–	P	<u>P</u>	P	P	
Restaurant, drive-in or drive-through	–	–	–	–	–	P	<u>S</u>	P	P	
Food truck	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	27-9.80
Other eating or drinking establishment ²⁴	–	–	–	P	P	P	<u>P</u>	P	–	

²³ This is a proposed change. Co-located antennas are currently subject to use permit approval (the same as towers). Change recommended due to recent federal legislation (Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012).

²⁴ Need to confirm. Current ordinance lists only restaurant. This would expand to include all eating and drinking.

USES	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M	Supplemental Regulations
Entertainment and Spectator Sports										
Auditorium or stadium	-	-	-	-	-	-	=	P	P	
Drive-in theater	-	-	-	-	-	-	=	P		
Movie theater	-	-	-	P	-	-	=	P	-	
Special events facility	-	P	-	-	-	P	P	P	-	
Financial Services										
Banks, credit unions, brokerage and investment services	P	P	P	P	P	P	P	P	P	
Check cashing establishment Convenient cash business	-	-	-	-	-	-	=	P	-	27-9.60
Pawn shop	-	-	-	-	-	-	=	P	-	27-9.140
Food and Beverage Retail Sales										
Liquor store (as principal use)	-	-	-	-	-	P	P	P	P	
Liquor store (accessory to lodging or 3+ story office)	-	-	P	P	-	-	=	-	-	
Other food and beverage retail sales	-	-	P	P	P	P	P	P	P	
Funeral and Interment Services										
Cemetery, columbarium, or mausoleum	P	P	P	-	-	-	=	-	-	
Crematory	-	-	-	-	-	-	=	-	S	
Funeral home or mortuary	P	-	-	-	-	P	P	P	P	
Lodging										
	P	-	P	P ²⁵	-	P	P	P	P	
Medical Service										
Home health care service	P	P	-	-	-	-	=	-	-	
Hospice	P	P	-	-	-	-	=	-	-	
Kidney dialysis center	P	P	-	-	-	-	=	-	-	
Medical and dental laboratory	P	P	-	P	-	P	P	-	P	
Medical office/ clinic ²⁶	P	P	P	P	P	P	P	P	P	
Office or Consumer Service²⁷										
	P	P	P	P	P	P	P	P	P	
Parking, Non-accessory										
	S	-	P	-	-	P	P	P	P	27-9.130
Personal Improvement Service										
Barber shop, beauty shop, nail salon, day spa, <u>estheticians</u>	P	-	-	P	P	P	P	P	P	
Other personal improvement service	-	-	-	-	-	P	P	P	P	
Repair or Laundry Service, Consumer										
Laundromat, self-service	-	-	-	P	P	P	P	P	-	
Laundry or dry cleaning drop-off/pick-up	P	-	-	P	P	P	P	P	P	
Other consumer repair or laundry service	-	-	-	P	P	P	P	P	P	
Research and Testing Services										
	P	-	P	P	-	-	=	P	P	
Retail Sales										
Retail sales of goods produced on the premises	-	-	-	-	-	-	=	-	P	
Shopping Center	-	-	-	P	P	P	P	P	-	
Other retail sales	-	-	P	P	P	P	P	P	-	
Sports and Recreation, Participant										
Golf course and clubhouse, private	P	P	P	-	-	-	=	P	P	

²⁵ Existing OCR district lists (only) motels and only when in mixed-use developments of at least 10 acres. Does this supplemental regulation need to be carried over?

²⁶ This combines existing “health services clinic” and “health service practitioner”

²⁷ Office use regulations are currently inconsistent. While engineering and architecture offices are permitted in all nonresidential districts, other types of office are permitted in some districts and not in other. This proposed approach, therefore, constitutes a slightly more permissive approach.

USES	O-1	O-1-T	O-D	OCR	NS	C-1	CR-1	C-2	M	Supplemental Regulations
Health club	–	–	P	P	P	P	<u>P</u>	P	P	
Private park	P	P	P	–	–	–	<u>–</u>	–	–	
Recreation center or swimming pool, neighborhood	P	P	P	–	–	–	<u>–</u>	–	P	
Recreation grounds and facilities	–	–	P	–	–	–	<u>–</u>	P	–	
Tennis center, club and facilities	P	P	P	P	–	P	<u>P</u>	P	–	
Other participant sports and recreation (Indoor)	<u>P</u>	–	–	P	–	P	<u>P</u>	P	–	
Other participant sports and recreation (Outdoor)	–	–	–	–	–	–	<u>–</u>	P		
Vehicle and Equipment, Sales and Service										
Car wash	–	–	–	–	–	<u>P</u>	–	<u>P</u>	P	27-9.40
Gasoline sales	–	–	–	–	–	P	–	P	P	27-9.90
Vehicle repair, minor	–	–	–	–	–	P	–	P	P	27-9.230
Vehicle repair, major	–	–	–	–	–	–	–	P	P	27-9.220
Vehicle sales and rental	–	–	–	–	–	<u>S</u>	S	P	P	27-9.240
Vehicle storage and towing	–	–	–	–	–	–	–	P	P	27-9.250
INDUSTRIAL										
Manufacturing and Production, Light	–	–	–	–	–	–	<u>–</u>	P	P	
Mining and Quarrying	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>		<u>–</u>	<u>S</u>	
Wholesaling, Warehousing and Freight Movement										
Warehousing and storage	–	–	P	–	–	–	<u>–</u>	–	–	
Self-storage warehouse	–	–	P	–	–	–	<u>–</u>	–	P	
Storage yard and truck terminal	–	–	–	–	–	–	<u>–</u>	–	S	
AGRICULTURE AND TRANSPORTATION										
Agriculture										
Agricultural produce stand	–	–	–	–	–	–	<u>–</u>	–	P	
<u>Community garden</u>	P	P	P	P	P	P	<u>P</u>	P	P	27-9.50
<u>Dairy</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>		<u>–</u>	<u>P</u>	
Crops, production of	–	–	–	–	–	–	<u>–</u>	–	P	
<u>Livestock</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>	<u>–</u>		<u>–</u>	<u>P</u>	
Transportation										
Heliport	S	–	S	–	–	S	<u>S</u>	–	P	
Stations and terminals for bus and rail passenger service	S	–	–	–	–	–	<u>–</u>	–	–	
Taxi stand and taxi dispatching office	–	–	–	–	–	P	<u>P</u>	–	P	

27-5.30 Lot and Building Regulations

- 27-5.30-A.** This section establishes basic lot and building regulations that apply in nonresidential and mixed-use zoning districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that stated minimums and maximums can be achieved on every lot. Other factors, such as topography, the presence of protected resources, off-street parking and other factors may work to further limit actual building and development potential.
- 27-5.30-B.** The lot and building standards of the following table apply to all principal and accessory uses allowed in nonresidential and mixed-use districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance (see also Figure 5-1).

Regulation	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M
L1 Minimum Lot Area (sq. ft.)	20,000	20,000 ^[1]	43,560	87,120	20,000	20,000	20,000	30,000	30,000
L2 Minimum Lot Frontage (ft.)	100	100	150	100	100	100	100	100	100
Maximum Density (dwelling units per acre)	NA	NA	NA	30	NA	NA	80	NA	NA
Minimum Building/Structure Setbacks (ft.)									
S1 Street, Front and Side	50	40 ²⁸	75	50	50	50 ²⁹	0	50 ³⁰	75
S2 Side, Interior	20	20	20	20	20	20	20 ^[2]	20	20
S3 Rear	30	30	30	40	30	30	30	30	30
C Maximum Lot Coverage (%)	80	80	80	80	80	80	80	80	80
Maximum Building Height (stories/ft.)	5/70 ^[3]	2/35 ³¹	2/35 ^[4]	2/35 ^[4]	2/25	2/35 ^[4]	3/45 ^[4]	2/35 ^[4]	5/70 ^[3] ³²
Maximum Building Floor Area (sq. ft.)	NA	NA	NA	NA	50,000 ^[5]	NA	NA	NA	NA

[1] Attached house developments are subject to a minimum lot area requirement of 4,000 square feet per dwelling unit.

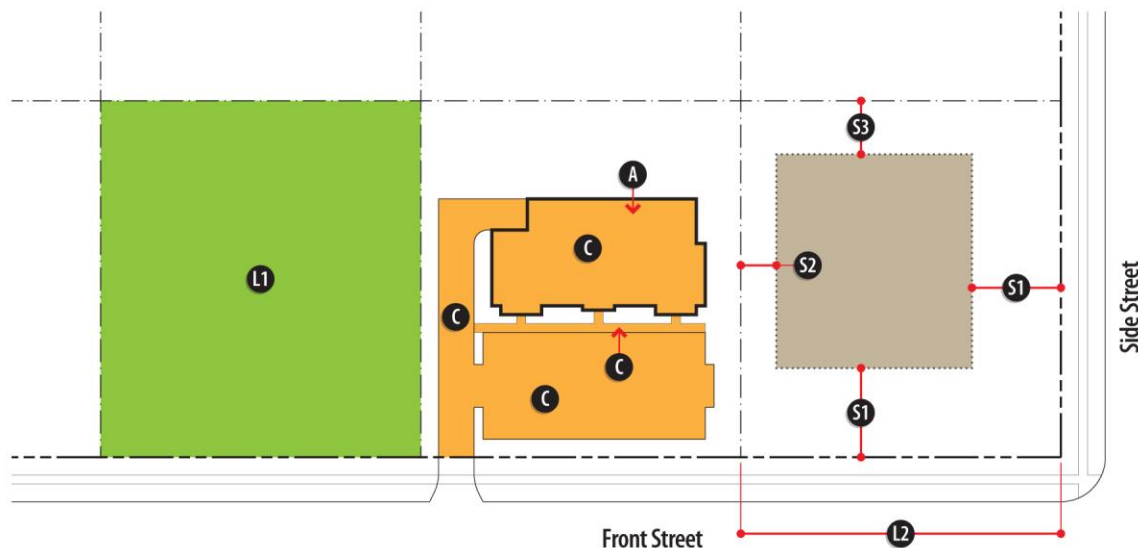
[2] No interior side setback required abutting C-1, CR-1 or C-2-zoned lots.

[3] Buildings may exceed 3 stories in height only if approved by fire and rescue services. Buildings in excess of 5 stories or 70 feet in height may be approved only through the special land use permit procedures of [Article 19](#). Multi-unit residential and vertical mixed-use buildings that abut any attached single-dwelling residential district may not exceed 40 feet in height. Multi-unit residential buildings and vertical mixed-use buildings that abut any detached single-dwelling residential district may not exceed 35 feet in height.

[4] Buildings in excess of 2 stories or 35 feet in stated height limits may be approved through the special land use permit procedures of [Article 19](#). Buildings may exceed 3 stories in height only if approved by fire and rescue services.

[5] No individual building may exceed 50,000 sq. ft. (GSF). No multi-tenant center may exceed 100,000 sq. ft.

Figure 5-1: Lot and Building Regulations Diagram, Nonresidential and Mixed-use Districts



27-5.40 Other Regulations

Uses and development in nonresidential and mixed-use zoning districts may be subject to other regulations and standards, including the following.

²⁸ This is a change. Minimum street side setback requirement is currently 50 feet, while “front” street setback is 40 feet.

²⁹ This is a change. Minimum front setback requirement is currently 75 feet, while side street setback is 50 feet.

³⁰ This is a change. Minimum front is currently 75 feet.

³¹ The existing 2 story/35-foot limit seems odd. A 2-story building would rarely if ever be as tall as 35 feet.

³² This is a slight change. Current regulation states maximum is 5 stories, and that buildings in excess of 5 stories may be approved as SLUP (no mention of 70 feet or fire and rescue approval of buildings over 3 stories)

27-5.40-A. NonconformitiesSee [Article 29](#).**27-5.40-B. Accessory Uses and Structures**See [Article 10](#).**27-5.40-C. Parking**See [Article 12](#).**27-5.40-D. Landscaping and Screening**See [Article 13](#).**27-5.40-E. Signs**See [Chapter 20](#) of the municipal code.**27-5.40-F. Outdoor Storage**See Sec. [27-16.10](#).**27-5.40-G. Temporary Uses**See [Article 11](#).**27-5.40-H. Outdoor Lighting**See [Article 14](#).

Article 6 Special Purpose Zoning Districts

27-6.10 PC, Perimeter Center District

RESERVED (future location of district(s) to accommodate PCID uses and development)

27-6.20 PD, Planned Development District

27-6.20-A. Purpose and Administration of District³³

The PD, Planned Development district is intended to permit the planning and development of parcels of land that are suitable in location and character for the uses proposed as unified and integrated developments in accordance with detailed development plans. The PD district is intended to provide a means of accomplishing the following specific objectives:

1. To provide for development concepts not otherwise allowed within non-PD zoning districts;
2. To provide flexibility, unity and diversity in land planning and development, resulting in convenient and harmonious groupings of uses, structures and common facilities;
3. To accommodate varied type design and layout of housing and other buildings;
4. To allow appropriate relationships of open spaces to intended uses and structures;
5. To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to those buildings;
6. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may benefit those who need homes;
7. To lessen the burden of traffic on streets and highways; and
8. To provide a procedure that can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics.

27-6.20-B. Establishing a Planned Development

1. No PD district may be established without the concurrent approval of an overall development plan (ODP) by the mayor and city council, in accordance with Sec. [27-6.20-C](#).

³³ These regulations come from a recent text amendment approved by the city.

2. The boundaries of each PD, upon approval, must be shown on the zoning map, must be in conformance with the adopted comprehensive plan and any adopted master plan, must be a minimum of 10 acres in area, and must be in compliance with the approved overall development plan.³⁴
3. Once adopted, an ODP may be modified in the following ways:
 - a. The community development director has sole authority to approve minor changes to conditions attached to an approved PD zoning designation. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for minor change of conditions must be made in written form to the community development director. If an approved site plan exists, the request for minor change must be accompanied by 4 copies of the revised site plan.
 - b. Any major change to conditions attached to an approved PD zoning designation requires approval of a zoning map amendment in accordance with the procedures of [Article 18](#). Without limiting the meaning of the phrase, the following are deemed to constitute major changes for purposes of interpreting this section:
 - (1) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
 - (2) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
 - (3) Any decrease in the minimum size of residential units imposed in the original conditional zoning amendment;
 - (4) Any change in any buffer requirement imposed in the original conditional zoning amendment;
 - (5) Any increase in the height of any building or structure; or
 - (6) Any change in the proportion of floor space devoted to different authorized uses.

27-6.20-C. Application of Regulations

1. Overall Development Plan

Development of the PD is governed by overall development plan that designates the land uses of the PD. The ODP must be accompanied by development standards text, which may be approved as a condition of zoning, providing develop-

³⁴ Need to discuss the meaning/intent of this paragraph?

ment standards and uses for the project that can vary, augment or limit the requirements of this zoning ordinance and the development regulations. The ODP must be submitted as a part of the PD rezoning application.

- 2.** At a minimum the ODP must include:
 - a.** Sketch plan;
 - b.** Type and location of all intended uses;
 - c.** Expected gross land areas of all intended uses including open space;
 - d.** Gross floor area or residential unit size and number for all buildings or structures, including a statement pertaining to the appropriateness of the density and intensity of the suggested uses relative to policies and standards contained within the comprehensive plan;
 - e.** architectural elevations of all proposed building sides, a description of the types of exterior treatments of buildings, a site plan to scale, density calculations;
 - f.** circulation plan;
 - g.** street documentation;
 - h.** parking analysis;
 - i.** a tree plan showing the existing trees on site that are 6 inches in diameter at breast height or greater for hardwoods and 16 inches in diameter at breast height for other trees;
 - j.** existing site survey and a grading plan; and
 - k.** any other information deemed necessary by staff for planning review.
- 3.** To the extent that the approved ODP and development standards for a PD contradict the development regulations and this zoning ordinance, the approved ODP for the PD district governs.
- 4.** No changes in land use or density may be allowed in any approved and incorporated overall development plan or development standards text, except as subsequently approved pursuant to a rezoning of the property.
- 5.** Due to the mixed-use nature of PD proposals, architectural compatibility must be determined based upon the context and guidance of the comprehensive plan and specific sub-area plan area in which the PD is located. As a part of the architectural design, a "four-sided" design philosophy must be used, materials used shall be enduring in their composition and include as the primary material, brick, stone or equivalent durable materials.
- 6.** Land uses within a PD district may be multiple in nature. The location and relationship of these uses must be as established in and conform to the policies and standards contained within the comprehensive plan and other appropriate adopted and approved plans and established as part of the ODP.

Article 7 Overlay Zoning Districts

27-7.10 General

27-7.10-A. Establishment

Overlay zoning district regulations and overlay zoning district boundaries may be established or amended only in accordance with the amendment procedures of [Article 18](#).

27-7.10-B. Interpretation

Overlay zoning district regulations apply in combination with underlying (base) zoning district regulations and all other applicable regulations of this zoning ordinance. When overlay district standards conflict with standards that would otherwise apply under this zoning ordinance, the regulations of the overlay zoning district govern. Otherwise, all applicable regulations of this zoning ordinance apply in overlay districts.

27-7.20 –DVO, Dunwoody Village Overlay

27-7.20-A. Purpose and Intent³⁵

The Dunwoody Village overlay district is primarily intended to implement the policies and objectives of the comprehensive plan and the Dunwoody Village master plan. It is further intended to help:

1. maintain and enhance the identity and image of the Dunwoody Village area;
2. accommodate and promote walkable, development patterns containing a complementary mix of land uses;
3. create new opportunities for public open spaces and gathering spaces in the commercial core of Dunwoody;
4. ensure that new development and substantial additions to existing buildings are compatible with the pre-1900 Mid Atlantic American Colonial Architecture that is characteristic of the district;
5. support efforts to create a vibrant shopping and entertainment area in which merchants and businesses thrive and grow, thereby helping to maintain property values and keeping vacancy rates low; and
6. maintain and enhance the area's role as a place for civic activities and public gatherings within well-designed open spaces.

³⁵ Updated; no substantive changes.

27-7.20-B. Redevelopment

The city council anticipates that in the future a developer may desire to redevelop all or portions of the Dunwoody Village area, and that the type of redevelopment proposed may be difficult or impossible to carry out under the existing zoning. To accommodate and encourage large-scale redevelopment in accordance with the approved *Dunwoody Village Master Plan*, the city council may consider rezoning or planned development (PD) development proposals.

27-7.20-C. Thresholds for Compliance³⁶

1. Full Compliance

Except as otherwise expressly stated by the specific provisions of this section (Sec. 27-7.20), permits for the following building and construction activities may be issued only if the entire building is determined to comply with the applicable regulations:

- a. Construction of a new building;
- b. Construction of building additions that result in a 10% or greater increase in the floor area or building coverage of the existing building;
- c. Exterior construction or remodeling with a total value of 15% or more of the county tax assessor's 100% assessed value of the existing improvements only; and
- d. Interior construction or remodeling with a total value of 25% or more of the county tax assessor's 100% assessed value of the existing improvements only.

2. Partial Compliance

Permits for exterior remodeling or building activities that do not trigger full compliance may be issued only if the portion of the building affected by the work is determined to be in compliance with all applicable overlay district regulations.

27-7.20-D. Design Review³⁷

No land disturbance permit, building permit or sign permit may be issued for buildings or construction activities that are subject to one or more of the overlay district regulations of this section until the design review process of [Article 20³⁸](#) has been completed.

³⁶ These “thresholds” are new. Many of the existing regulations state that “all uses and structures” or “any building” (or similar wording) must comply. These proposed thresholds are being evaluated and additional calibration and adjustment may be required.

³⁷ Existing provisions establishing the design review advisory committee have been moved to [Article 26](#) (Review and Decision-making Bodies).

³⁸ No substantive change proposed; merely placing the existing (advisory) 14-day design review procedures with the other procedures.

27-7.20-E. Architecture and Design**1. Exterior Materials**

- a. Exterior cladding material must consist of stone, earth tone brick (the preferred material) or white/cream painted horizontal lap siding. Lap siding must be wood, ~~or a material that exhibits wood-like properties, such as cementatous-fiber cement~~ lap siding ~~or other substitute approved by the design review advisory committee because of its wood-like appearance and durability~~. If lap siding is used, the base of the structure must have brick or stone cladding from the grade to the first floor elevation. Vertical siding, stucco, external insulating finishing system (EIFS), metal siding, metal trim, vinyl siding, vinyl trim, marble siding, marble trim, exposed concrete and block are prohibited.
- b. Exterior siding material must be consistent and uniform on all exterior elevations. Siding material must be predominantly brick, stone or lap siding. Buildings and building additions with masonry on only ~~the front face street-facing facades~~ are prohibited. Buildings and building additions with first floor masonry and second floor lap siding are prohibited.
- c. All exposed bricks must be approximately 8 inches wide by 3 inches deep by 2.67 inches high and must be laid in a running bond. Engineer-size bricks and Flemish bond are ~~acceptable also allowed~~. All joints must be tooled with grapevine joint, and mortar must be buff or ochre in color. Stone veneers must have ochre tooled mortar joints.



- d. When lap siding is used, the maximum allowable exposure on lap siding is 8 inches.
- e. Applied trim materials, cornice and window casings must consist of painted wood or ~~other painted fiber cement materials or other substitute material approved by the design review advisory committee~~



because of its wood-like appearance, durability and ability to hold paint that exhibit wood-like properties. Metal, vinyl, stucco, block stone and concrete are prohibited, except that wrought-iron handrails are permitted. Nonmasonry trim colors are limited to shall be equal to or similar to colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives.



- f. Exposed portions of the foundation must be covered in masonry veneer. Exposed block, stucco and concrete are prohibited.

2. Roofs

The following requirements apply to roofs visible from public rights-of-way, outdoor activity areas (e.g., seating areas) or other areas of the site intended for public access:

- a. Gabled roofs, hipped roofs, or combinations of such roof forms are permitted. Flat roofs and shed roofs are prohibited.
- b. Exterior roofing material is limited to asphalt (fiberglass) shingles, slate or cedar shake. Roofs must be black, a dark shade of gray or weathered wood color. All asphalt (fiberglass) shingles must be dimensional. Standing seam copper or bronze color metal roofs are permitted only as accents on porches or dormers.
- c. Roof overhangs must be at least 8 inches but not greater than 12 inches. Gabled ends may have either an overhang or a flush rake.



- d. Eave lines must be consistent, largely unbroken and horizontal. All eaves must be architecturally detailed with one or more of the following elements: dental molding, crown molding, built-up fascia, or frieze board. The total width of fascias/cornices and rake trim must be at least 9.25 inches.



- e. Roofs must contain at least one roof projection for every 75 lineal feet of building frontage. Roof projections may include cupolas, dormers, balustrade walks, chimneys or gables.

3. Building Massing³⁹

- a. Buildings that are longer than 75 feet must be designed so as to appear as multiple structures through the use of varied roof forms, building projections or architectural details.
- b. Buildings that are longer than 100 feet must provide ~~no less than 10 lineal feet of~~ a pedestrian arcade or covered porch with minimum dimensions of 8 feet in any direction. ~~Exterior metal columns are prohibited. Exterior columns must include a base and a capital, and must generally align with story heights. Two-story exterior columns are prohibited. All exterior columns must be traditional in style.~~
- c. The apparent exterior floor-to-floor height of each story of a building may not exceed 12 feet. Individual floors must be delineated on the building facade through the use of window placement and horizontal details.



³⁹ Removed (for now, at least) the seemingly confusing requirement that the front building façade “be no more than 10 feet from the required streetscape improvements.” (Sec. 27-1269(3)h)

- d. Buildings must have at least one building projection on the front facade below the eave line. Building projections may consist of stoops, bay windows, covered porches, extruded entrances, ~~and~~ pedestrian arcades or other approved features.

~~Building height is limited to 35 feet when measured from the first floor (street elevation floor) elevation to the peak of the highest ridge line. Cupolas or widow's walks are not considered roof and are not included in the height measurement.~~⁴⁰

- e. Primary building walls must be rectilinear and simplified in form. Curved walls or non-90-degree corners are prohibited, except that bay projections may be allowed.

4. Fenestration

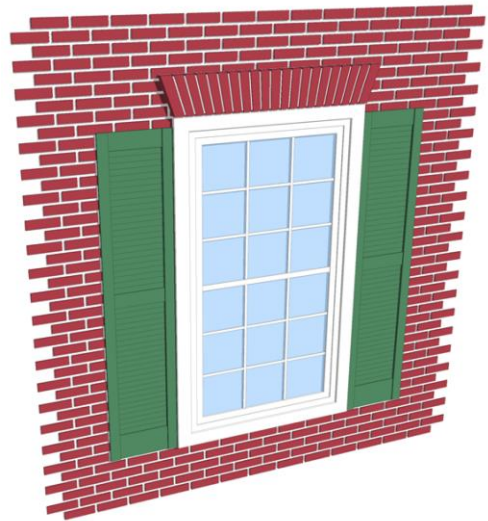
The following requirements apply only to areas visible from public rights-of-way, outdoor activity areas (e.g., seating areas) or other areas of the site intended for public access:

- a. Doors must be compatible with pre-1900 Mid Atlantic American Colonial Architecture style. All-glass doors and flush doors are prohibited. Solid doors must be six-panel and may have sidelights or a transom sashes. Windowed doors must contain a solid border, a minimum of 6-inch-wide panels, and must include mullions or divided lights not exceeding 12 inches in any direction. Mullions must be 1.25-0.75 inches in size. French, three-quarter glass or nine-light doors are allowed if they comply with the requirements of this paragraph.
- b. Individual doors must be of a single color and are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives. Dark stained doors are allowed if the shade is equal to or darker than Minwax special walnut.⁴¹
- c. Primary doors may not exceed 42 inches in width and 96 inches in height. Larger doors are prohibited.

⁴⁰ Removal of the overlay-district height limit would mean that underlying zoning would control. Removal of the 35-foot overlay district limit may be necessary for realization of master plan recommendations.

⁴¹ Ideally, these types of manufacturer and product-specific specifications would be included in a non-codified manual or set of design “guidelines.”

- d. Windows must be vertically proportioned standard sizes, with a minimum width of 28 inches and minimum height of 66 inches. Transom windows are not subject to vertical proportion requirements and do not count in the overall window proportion. Vertical windows may be grouped to create storefront windows but are limited to 15-foot sections with a minimum of 4 inch-mulls. Group windows must be separated by at least 5 feet of unbroken wall space. Slit windows, strip windows, and ribbon windows are prohibited. ~~Fixed windows may not be wider than five feet and no taller than six feet, six inches tall.~~



- e. Blank facades are prohibited. Windowless sections of the front facade may not exceed 20 feet in width. Windows and doors must be provided on at least 10% of the front facade but may not constitute no more than 50% of the total area of the front facade. For this purpose, windows must be measured at the sash and only the swinging part of the doors may be counted. Casing is not included in the measurement. Windows must generally be spaced in an even rhythm.



Window Trim and Mullions



- f. All windows must be rectilinear double hung, provided that arch top and fixed sash windows are allowed. Triangular or otherwise angular windows are prohibited. Round windows are permitted as accent windows in locations such as gables. Louvered gable vents are allowed, but they must be rectilinear and surrounded by one-by-four and backband.
- g. All windows must have the appearance of mullions or divided lights. Mullions must be ~~at least 1-25-0.75~~ inches in width. Panes must be vertical rectilinear, generally square in proportion. Diagonal panes are not permitted except in arch windows.

~~All windows should be surrounded with casing (one by four and backband, one by six and backband, Howe casing and backband or Mrs. Jenny Casing and backband).~~

- h. Shutters must be constructed of wood or a substitute material approved by the design review advisory committee because of its wood-like appearance and durability. ~~with wood-like properties other than vinyl.~~ Shutters must be sized to fit the window and include ~~with~~ horizontal slats or raised panels. Metal and vinyl shutters are prohibited. Shutter colors are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives. Shutters must appear operable, with hinges and tie backs.
- i. All windows must have sill and header trim details. Cut brick jack arches must be installed on all windows visible from the street or parking lot.
- j. The bottom of windows must be at least 20 inches above grade.

27-7.20-F. Signs

~~All lots in the Dunwoody Village Overlay District shall comply with~~ All signs within the Dunwoody Village overlay district are subject to the requirements of the city's sign ordinance and ~~subject to~~ the following additional regulations:

- 1. Signs must be designed and constructed to be compatible with the architectural style that is characteristic of the Dunwoody Village overlay district area.
- 2. Ground signs must be monument-style signs with a brick base ~~and framework made of brick~~.
~~Free standing signs shall not be permitted in the public right of way.~~⁴²
- 3. For lots containing 9 or fewer storefronts, ground signs may not exceed 8 feet in height and 8 feet in width.
- 4. For lots containing 10 or more storefronts, ground signs may not exceed 12 feet in height and 8 feet in width.
- 5. Window signs may not exceed 2 square feet in area.
- 6. Banners are prohibited except for pole banners as permitted in Chapter 26 of the municipal code.
- 7. Signs must have a matte finish and be constructed of wood or other substitute material approved by the design review advisory committee because of its wood-like appearance and durability ~~have a wood-like appearance~~.
- 8. Sign colors, except for logos, are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives.

⁴² Provision is unnecessary.

9. All illuminated signs ~~shall~~must be indirectly illuminated or halo lighted.
10. Neon, gas, colored, flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited.~~all visible neon is prohibited;~~
This prohibition notwithstanding, a single LED or neon sign up to 2 square feet in area is allowed, provided that the sign does not employ any flashing, animation, movement or sound and provided that the sign may be illuminated only during hours in which the establishment is open for business.
11. Sign shape and lettering is limited as follows:
 - a. Sign facing must be flat in profile and may not exceed 8 inches in thickness.
 - b. Signs with more than 2 faces are prohibited.
 - c. Sign lettering and logo content may not exceed 18 inches in height.
12. Standard informational signs:
 - a. May not be more than 3 feet above grade;
 - b. May not exceed 6 square feet in area;
 - c. May not have more than 2 sign faces;
 - d. May not be made from flexible materials, such as vinyl, cloth or paper;
 - e. Must be free-standing and not attached to permanent or temporary structures;
 - f. Must comply with the color standards of the district; and
 - g. Must be maintained in good repair.

Certificate of Occupancy

~~Prior to the issuance of certificate of occupancy, the site must be inspected by the city and the design review advisory committee member, and a final compliance certificate issued by the community development director or designee after receiving any recommendations from the design review advisory committee. Any deficiencies must be corrected before the CO is issued.~~

27-7.20-G. Parking and Circulation

The parking and circulation regulations of Article 12 apply within the Dunwoody Village overlay district except as modified by the following regulations:

1. ~~Each lot shall provide no less than one parking space for each 750 square feet of floor area and~~ New nonresidential buildings and nonresidential uses and additions to existing nonresidential buildings and nonresidential uses may not provide no more than ~~two~~ 3 parking spaces for each 750 per 1,000 square feet of floor area. This provision does not require that existing “excess” parking spaces be removed.
2. Parking areas must be separated from the main road by a minimum distance of 30 feet and include at least the landscaping required by Sec. 27-13.40. Wherever

possible, parking must be confined to the rear of structures or be placed underground.

~~Sidewalks with a minimum width of 10 feet must be provided along all store fronts.~~

~~Parking areas shall be separated from buildings by a planted area or other landscaped area that is no less than 10 feet in width. Parking areas shall be separated from the main road by 30 feet and include a hedge/landscaping barrier to reduce the visibility of parked vehicles. Wherever possible, parking should be confined to the rear of structures or underground.~~

~~Shared parking is encouraged and may be authorized by the director of community development. Applicants may make application to the director for authorization for a special exception for shared parking. Said applications shall be considered and decided by the director pursuant to the standards and procedures set forth in this section.~~⁴³

~~The use of bicycle racks is required. Bicycle racks shall be located near building entries. The racks shall be inverted U shaped bike racks, either dark green in color or finished stainless steel. Racks shall accommodate a minimum of four bicycles.~~⁴⁴

27-7.20-H. Landscaping

~~The landscaping and screening regulations of Article 13 apply within the Dunwoody Village overlay district. See also Sec. 27-7.20-I.~~

~~All landscape surveys and site plans shall be appropriately scaled drawings, prepared and sealed by a registered landscape architect or certified arborist.~~

~~Each lot shall provide a planted area or areas in the front yard near the building entrance that consists of a total area no less than five percent of the building area. Such planted area or areas may consist of grassed areas, linear beds along the building, raised planters, and similar landscaped areas.~~

~~The landscaping on each lot shall contain the following landscape elements: flower beds, shrubs, and at least two, three inch caliper trees.~~

~~With the exception of trees, landscape elements including shrubs shall not exceed four feet in height when mature.~~

⁴³ A special overlay-based provision is no longer necessary. Shared parking is encouraged/allowed by general parking regulations of [Article 12](#).

⁴⁴ Special bicycle parking regulations are no longer necessary in light of new bicycle parking regulations of Sec. [27-12.50](#).

~~No landscape plant material may interfere with vehicle safety and driver visibility. Plant material and placement should be approved by the city public works department prior to approval of the design review advisory committee. Concrete only medians are prohibited.~~

Lighting⁴⁵

~~The following lighting regulations shall apply to all permitted uses within the Dunwoody Village Overlay District:~~

~~All lots shall provide streetlights, parking lights, pedestrian lights, and indirect building lights.~~

~~Public streetlights shall be provided along public rights of way, as specified in subsection (3) of this section.~~

~~Parking lights shall be provided in all parking areas where it is anticipated that parking usage will occur after dark. The owner shall submit designs for approval. If the fixtures exceed 15 feet in height, they shall project downward, and shall be spaced in a uniform manner so as to provide full lighting for the parking area.~~

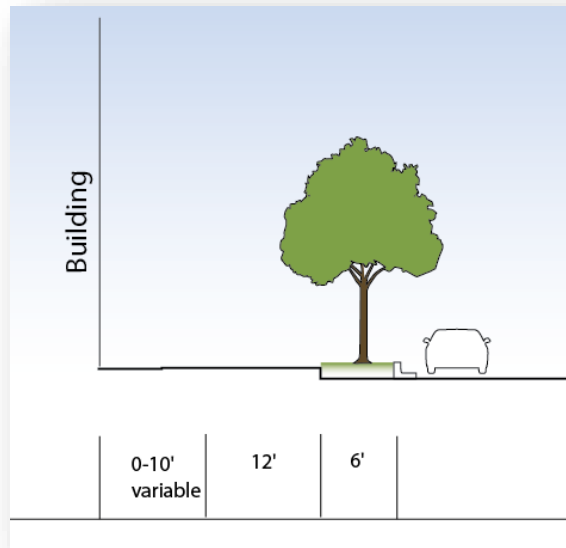
~~Pedestrian lights shall be provided within high volume pedestrian areas, and around public and private open space as prescribed in section 27-1324~~

~~Lamps must be powered with energy efficient LED bulbs or comparable efficient technology.~~

27-7.20-I. Streetscape and Pedestrian Amenities

1. A minimum 6-foot wide landscape area must be established abutting the back of the curb along abutting streets. This landscape area must adjoin a minimum 12-foot wide sidewalk. Buildings must abut the sidewalk or be located within 10 feet of the sidewalk. If buildings are set back from the edge of the required 12-foot sidewalk, the setback area must include features such as outdoor dining and seating areas, plazas and landscaped open spaces that provide a safe, comfortable and active environment for pedestrians.

⁴⁵ These provisions do not seem to be necessary in light of the extensive outdoor lighting regulations of [Article 14](#).



2. Street trees, spaced no more than 50 feet on center, must be provided in the required landscape area between the travel lanes and the sidewalk.
 - a. Maintenance of trees is the full responsibility of the owner of the adjacent site or the owner of the property on which the tree is located if it is located on private property.
 - b. Trees species must be selected from the city’s approved street tree list, which is available in the community development department; alternative cultivars may be approved on a case-by-case basis with the approval of the city arborist.
 - c. Trees must be at least 2.5-inch caliper and at least 8 feet in height at the time of planting. As street trees mature, they must be trimmed as necessary to provide a minimum vertical clearance of 7 feet above the sidewalk.
3. Pedestrian buffer zones with a minimum width of 10 feet must be provided abutting the sides and rear of all buildings. These areas provide a buffer between buildings and parking and service areas. The pedestrian buffer zones must contain walkways, planting areas, plazas, and similar pedestrian-oriented landscaped spaces. All pedestrian walkways within buffer zones must be at least 6 feet in width and finished with brick pavers or other approved accents or designs.
4. The front entrance of all buildings must be easily and safely accessible to pedestrians from the public sidewalk through a combination of pedestrian walkways and crosswalks. All entrances to crosswalks and sidewalks must include wheel-chair ramps, per code.
5. Covered sidewalks that are a part of the building and that are located within the buildable area of the lot are encouraged. Such covered sidewalks may be used for outdoor seating and dining, and as terraces and arcades.

6. In multi-tenant retail buildings, a continuous, unimpeded walkway must be provided to connect all business entrances.
7. Sidewalks must conform to the following:
 - a. Sidewalks must be paved using concrete or alternative pervious material as approved by city staff.
 - b. Where a sidewalk exists conforming to the standards of this ordinance except for the width, the developer must supplement the existing sidewalk width, adding width to create a 12-foot sidewalk.
 - c. Streetscaping performed as a function of city-initiated redevelopment must provide a landscape area at least 6 feet in depth.
8. Lighting must conform to the following:
 - a. Pedestrian and street lighting must be placed in the landscape zone at intervals of 90 to 100 feet on center and must be equal distance from required street trees, in accordance with the Georgia Power Area-Wide Pedestrian Lighting Plan.
 - b. Pole height may not exceed 15 feet.
 - c. Streetlights must be “Generation ARC” by Cooper, 150 watt from Georgia Power. Light poles must be “Grandville” by Hapco from Georgia Power.
 - d. Poles and fixtures must be dark green in color.
9. Furniture must be provided as follows:
 - a. Benches and trash and recycling receptacles must be installed every 250 feet along the public street and at each building entrance adjacent to a pedestrian walkway.
 - b. Benches must be Victor Stanley Classic Model c-138 series. Bench colors must be natural wood stain, with dark green.
 - c. Trash and recycling receptacles must be Victor Stanley Concourse series and must be firmly anchored to the ground.



- (1) Maintenance of trash and recycling receptacles, including servicing, repair, and replacement, is the full responsibility of the nearest adjacent property owner.
- (2) Recycling receptacles must be clearly identified with symbols and/or text indicating its intended use for recyclables.



27-7.20-J. Public Areas, Service Areas and Retaining Walls

1. Public plazas and outdoor dining areas must be easily accessible to pedestrians and provide protection from vehicular traffic by means of their location and design.
2. All dumpsters and other building service areas must be concealed from view of public rights-of-way, publicly accessible areas of the site and residential zoning districts. All dumpsters must be concealed with secured gates screening in accordance with Sec. [27-13.60](#).
3. Retaining walls must comply with the city building code. Visible areas of retaining wall must be covered with the face brick or stone of the downhill neighbor with a roll lock at the top. Horizontal wall expanses exceeding 20 feet must include offset pilasters with the same brick or stone rising 3 courses above the top of the adjoining wall and finished with a double course capital of the same brick or stone.
4. All utilities must be placed underground.

27-7.20-K. [Village Core Area](#)

[The village core area form and design regulations of this subsection apply within designated village core area of the DV-O district to all new buildings. The regulations also apply to renovations of and additions to existing buildings within the village core area that result in an increase of 50% or more in the building' gross floor area. These requirements govern in the event of conflict with other DV-O district regulations.](#)

[1. Build-to-Zone](#)

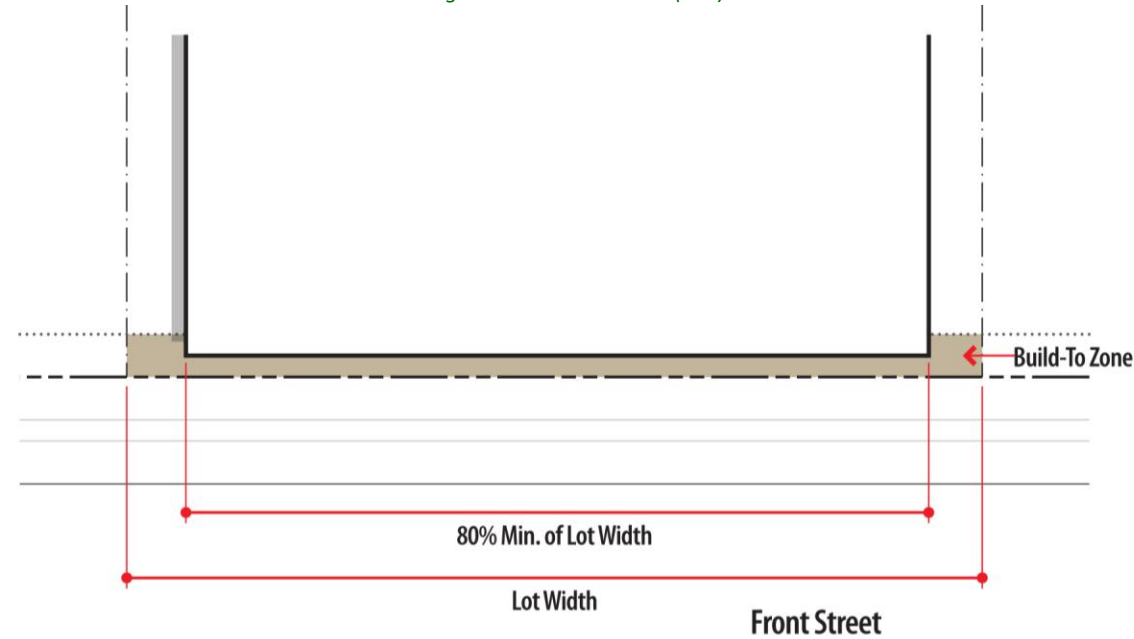
- [a. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum yard \(setback\) range from the edge of the right-of-way. The requirements are as follows:](#)

Build-to-Zone		
A	Minimum/maximum (feet)	0/10

B	Minimum percent of building in build-to-zone (%)	80
Parking Setback		
C	Minimum (feet)	30

a.b. The required percentage specifies the amount of the front building facade that must be located in the build-to zone, based on the width of the front building facade divided by the width of the lot.

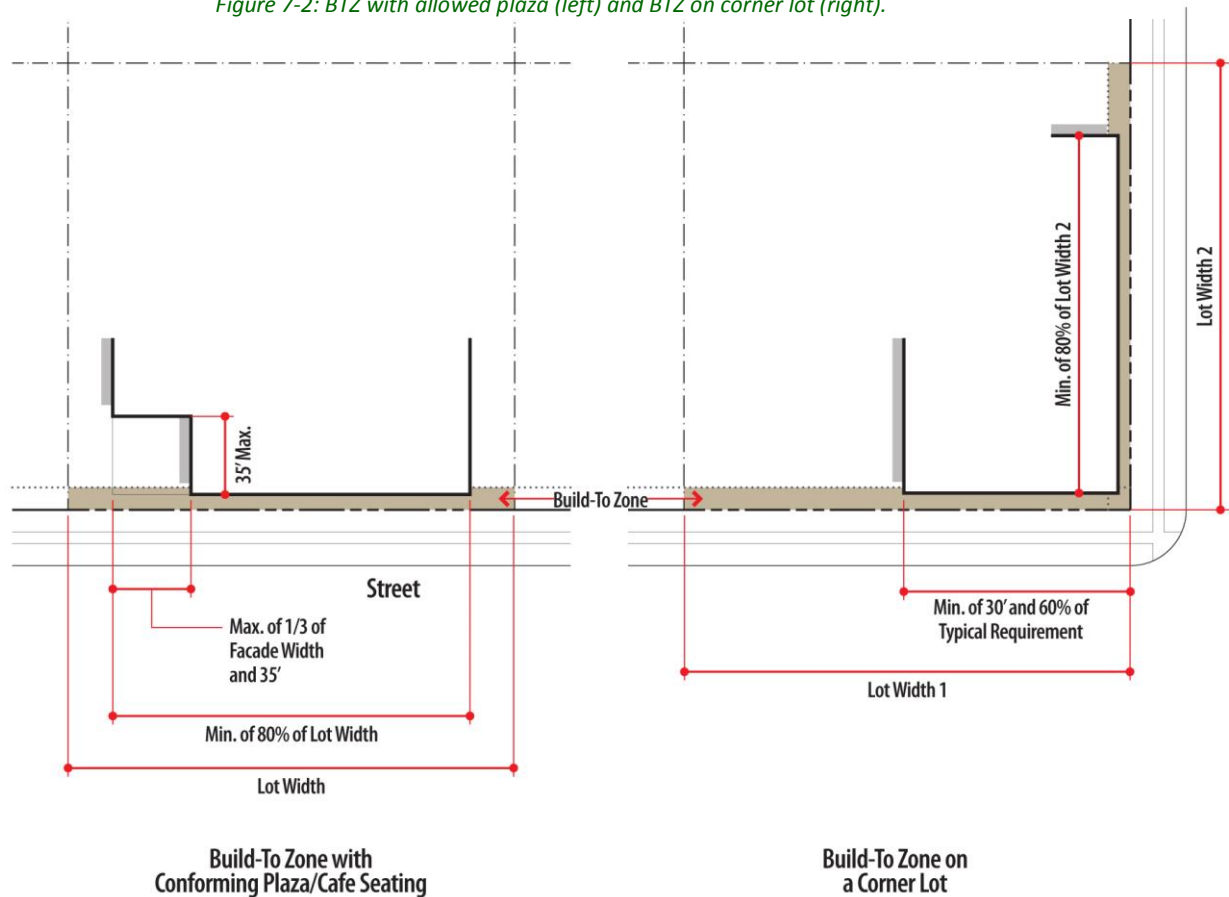
Figure 7-1: Build-to-Zone (BTZ)



- c. Outdoor open space, plazas and outdoor dining areas are counted as part of the building for the purpose of measuring compliance with build-to zone requirements, provided that:
- (1) The area does not exceed one-third the length of the building face or 35 feet, whichever is less; and

(2) The area is no more than 35 feet in depth (see Figure 7-2).

Figure 7-2: BTZ with allowed plaza (left) and BTZ on corner lot (right).



- d. On corner lots, the minimum requirement governing the minimum percent of building that must be in the build-to-zone may be reduced by 60% along one of the frontages, at the property owner's option, provided that a building facade must be placed in the build-to zone for the first 30 feet along each street extending from the corner (the intersection of the build-to-zones) (see Figure 7-2).

2. Transparency

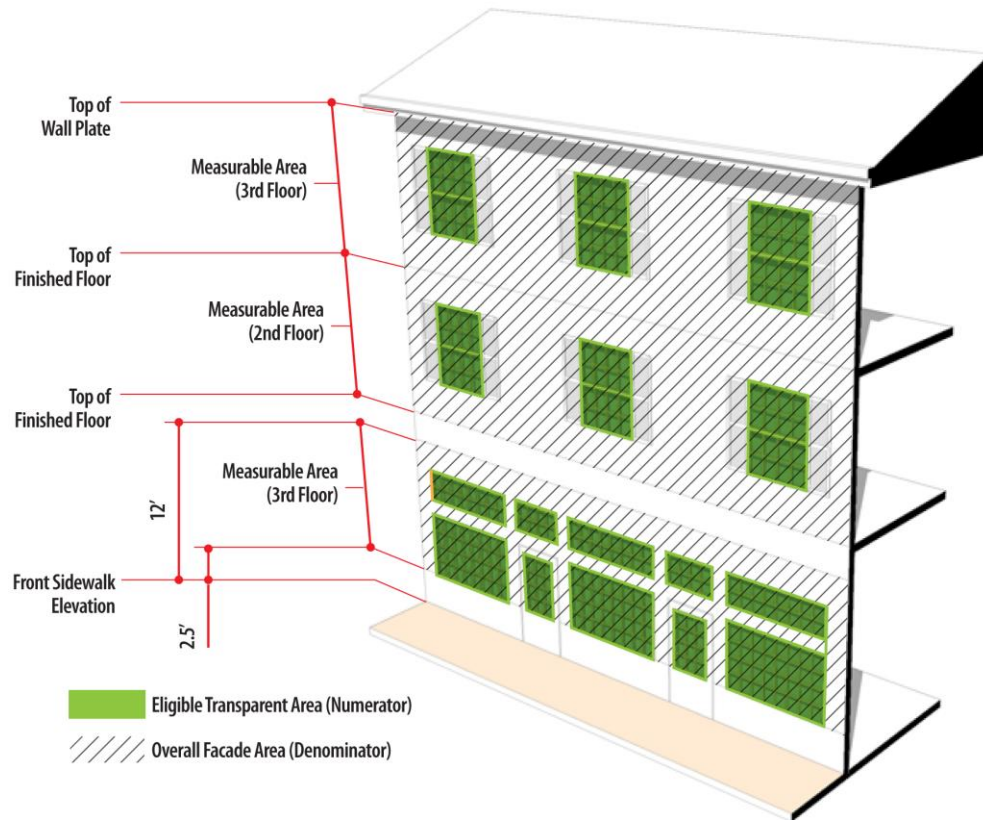
- a. Transparency regulations govern the percentage of a street-facing building façade that must be covered by glazing (e.g., transparent windows and doors). The requirements are as follows:

Transparency		
D	Minimum ground story (%)	65
E	Minimum upper story (%)	20

- b. The transparency of a ground story facade is measured between 2.5 and 12 feet above the adjacent sidewalk.
- c. The transparency of an upper-story facade is measured from top of the finished floor to the top of the finished floor above. When there is no floor

above, upper-story transparency is measured from the top of the finished floor to the top of the wall plate (see Figure 7-3).

Figure 7-3: Transparency Measurements



- d. Glazed element must be clear and non-reflective and not be painted or tinted, provided that low-emission (Low-E) glass coatings are permitted.

3. Blank Wall Area

- a. Blank walls are areas on the exterior facade of a building that do not include a substantial material change; windows or doors; columns, pilasters or other articulation greater than 12 inches in depth. Blank wall limits are established as follows:

F	<u>Maximum blank wall length (feet)</u>	<u>20</u>
----------	---	-----------

- b. Blank wall area regulations apply in both a vertical and horizontal direction.

4. Street-facing Building Entrances (G)

At least one street-facing building entrance must be provided. The building entrance must provide ingress and egress for residents and customers. Additional

entrances off another street, pedestrian area or internal parking area are also permitted.

27-7.20-L. Modifications and Adjustments

The regulations of subsections 27-7.20-E through 27-7.20-K) may be modified only if reviewed and approved in accordance with the special land use permit procedures of Article 19.

PART III: USES AND USE-SPECIFIC REGULATIONS

Article 9	Supplemental Use Regulations	9-1
27-9.10	Animal Services	9-1
27-9.20	Attached Houses	9-1
27-9.30	Bed and Breakfast	9-2
27-9.40	Car Washes.....	9-2
27-9.50	Community Gardens	9-2
27-9.60	Convenient Cash Businesses	9-3
27-9.70	Day Cares	9-3
27-9.80	Food Trucks	9-5
27-9.90	Gasoline Sales	9-6
27-9.100	Homeless Shelters and Transitional Housing Facilities	9-6
27-9.110	Kindergartens.....	9-6
27-9.120	Multi-unit Residential Buildings	9-6
27-9.130	Parking, Non-accessory	9-7
27-9.140	Pawn Shops	9-7
27-9.150	Personal Care Homes	9-7
27-9.160	Places of Worship, Convents and Monasteries	9-7
27-9.170	Residential Infill.....	9-8
27-9.180	Schools, (Private) Elementary, Middle or Senior High	9-12
27-9.190	Sexually Oriented Businesses	9-12
27-9.200	Telecommunications Towers and Antennas.....	9-18
27-9.210	Utility Facilities, Essential	9-21
27-9.220	Vehicle Repair, Major	9-21
27-9.230	Vehicle Repair, Minor	9-21
27-9.240	Vehicle Sales and Rental.....	9-22
27-9.250	Vehicle Storage and Towing	9-22
Article 10	Accessory Uses.....	10-1
27-10.10	Generally Applicable Regulations.....	10-1
27-10.20	Amateur Radio Service Antenna Structures	10-2
27-10.30	Home Occupations	10-2
27-10.40	Electric Vehicle Charging Stations	10-5
27-10.50	Geothermal Energy Systems	10-6
27-10.60	Residential Composting.....	10-6
27-10.70	Satellite Dish Antennas	10-7
27-10.80	Solar Energy Systems	10-8
27-10.90	Relatives' Residences	10-9
27-10.100	Retail Sales Kiosks, Vending Machines and Donation Drop Boxes	10-10

Article 11	Temporary Uses	11-1
27-11.10	Description and Purpose	11-1
27-11.20	Authority to Approve	11-1
27-11.30	Authorized Temporary Uses	11-1
27-11.40	Conditions of Approval	11-4

Article 8 Use Classifications

27-8.10 General

This article contains a description of the use classification system used to classify principal uses in this zoning ordinance.

27-8.10-A. Use Categories⁴⁶

This zoning ordinance classifies principal land uses into 5 major groupings, which are referred to as use categories:

1. Residential
2. Quasi-Public and Institutional
3. Commercial
4. Industrial
5. Agricultural

27-8.10-B. Use Subcategories

Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

27-8.10-C. Specific Uses

Some use subcategories are further broken down to identify specific use, business or activity types that are regulated differently than the parent subcategory as a whole.

27-8.10-D. Use Tables

The use tables in Sec. [27-4.20](#) and [27-5.20](#) identify uses allowed in residential districts and in nonresidential and mixed-use districts, respectively.

1. Use Categories, Use Subcategories and Specific Use Types

The use categories and subcategories described in this article are identified in the first column of the use tables. In some cases, specific use types are listed in addition to the use categories and subcategories.

⁴⁶ The use classification system of Article 8 is new, although it retains a close relationship with the use definitions of Dunwoody’s existing zoning ordinance. The specific use types of the current ordinance have been integrated into this proposed use classification framework. The proposed “group living” subcategory, for example, carries over definitions of various group living uses from the current ordinance.

2. Permitted Uses

Uses identified with a “P” in the use tables are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable regulations of this zoning ordinance.

3. Special Uses

- a. Uses identified with an “S” in the use tables may be allowed if reviewed and approved in accordance with the special land use permit procedures of [Article 19](#). Special land uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.
- b. Uses identified with an “E” in the use tables may be allowed if reviewed and approved in accordance with the special exception procedures of [Article 22](#). Special exception uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.
- c. Uses identified with an “A” in the use tables may be allowed if reviewed and approved in accordance with the administrative permit procedures of [Article 23](#). Administrative permit uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.

4. Prohibited Uses

Uses identified with an “–” are expressly prohibited. Uses that are not listed in the use table and that cannot reasonably be interpreted to fall within the use categories described in this [Article 8](#) are also prohibited.

5. Supplemental Use Regulations

The final column of use table identifies supplemental regulations that apply to some uses. Unless otherwise expressly stated, compliance with such regulations is required regardless of whether the use is permitted as-of-right or requires any form of special use approval.

27-8.10-E. Determination of Use Categories and Subcategories

1. The community development director is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
2. When a use cannot be readily classified into a use category/subcategory or appears to fit into multiple categories/subcategories, The community development director is authorized to determine the most similar, and thus most appropriate, use category/subcategory based on the actual or projected characteristics of the principal use or activity in relationship to the use category and subcategory descriptions provided in this section. In making such determinations, the community development director is authorized to consider all of the following:
 - a. The types of activities that will occur in conjunction with the use;

- b. The types of equipment and processes to be used;
 - c. The existence, number and frequency of residents, customers or employees;
 - d. Parking demands associated with the use; and
 - e. Other factors deemed relevant to a use determination.
3. If a use can reasonably be classified in multiple categories, subcategories or specific use types, the community development director must categorize the use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate match.
 4. If the community development director is unable to determine the appropriate use category for a proposed use, the community development director is authorized to deny the permit request.
 5. Community development director decisions on use determination matters may be appealed in accordance with the appeal procedures of [Article 24](#).

27-8.20 Residential Use Category

The residential use category includes uses that provide living accommodations to one or more persons.

27-8.20-A. Household Living Category

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. [Dwelling units rented whole or in part for periods of less than one calendar month are not included in the household living category. They are considered a form of lodging \(Sec. 27-8.40-J\).](#)

1. Detached House

A principal residential building containing one dwelling unit located on a single lot with private yards on all sides

2. Attached House

A residential building containing 2 or more dwelling units, each located on its own lot with a common or abutting wall along shared lot lines. Each dwelling unit has its own external entrance.

3. Multi-unit Building

A residential building, other than an attached house building, containing 2 or more dwelling units that share common walls and/or common floors/ceilings.

4. Mixed-use Building, Vertical⁴⁷

A building in which commercial uses occupy the ground floor and dwelling units occupy one or more upper floors.

⁴⁷ This proposed residential building type is not currently allowed in any existing districts.

27-8.20-B. Group Living

Residential occupancy of a dwelling by other than a “household,” typically providing communal kitchen/dining facilities. Examples of group living uses include but are not limited to fraternities, sororities, convents, monasteries, nursing homes and the following specific use types:

1. Nursing Home

An establishment providing inpatient, skilled nursing and rehabilitative services to patients who require health care but not hospital services. Care is ordered by and under the direction of a physician.

2. Personal Care Home

A building in which housing, meals and 24-hour continuous oversight and care services are provided for one or more ambulatory adults and that is licensed as a personal care home by the Office of Regulatory Services of the State Department of Human Resources.

a. Congregate Personal Care Home

A personal care home that offers care to 16 or more persons.

b. Family Personal Care Home

A personal care home that offers care to at least 4 but not more than 6 persons.

c. Group Personal Care Home

A personal care home that offers care to at least 7 but not more than 15 persons.

d. Registered Personal Care Home

A personal care home that offers care to at least one but not more than 3 persons.

3. Shelter, Homeless

The provision of overnight housing and sleeping accommodations for one or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services.

4. Supportive Living

Four or more dwelling units in a single building or group of buildings that are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous 24-hour watchful oversight, and that does not require licensure as a personal care home by the Office

of Regulatory Services of the State of Georgia Department of Human Resources.⁴⁸

5. Transitional Housing Facility

The provision of long-term but not permanent living accommodations for more than 6 persons who have no permanent residence and are in need of long-term housing assistance.

27-8.30 Quasi-Public and Institutional Category

The quasi-public and institutional use category includes educational, medical and religious institutions and other quasi-public uses. The quasi-public and institutional use category includes the following use subcategories:

27-8.30-A. Ambulance Service

Privately operated ambulance or emergency medical services.

27-8.30-B. Club or Lodge, Private

The use of a building or lot by a membership-based organization that restricts access to its facility to bona fide, dues-paying members and their occasional guests. Private clubs and lodges are characterized by definite membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws. Examples include country clubs and fraternal organizations. This subcategory does not include adult entertainment establishments or adult service facilities.

27-8.30-C. Cultural Exhibit

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, museum exhibition of works of art.

27-8.30-D. Day Care

Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for fewer than 24 hours per day.

1. Adult Day Care Center

A day care establishment operated by any person with or without compensation for providing for the care, supervision and oversight only during day-time hours of 7 or more adults who are elderly, physically ill or infirm, physically handicapped or mentally handicapped.

2. Adult Day Care Facility

A day care establishment operated by any person with or without compensation for providing for the care, supervision and oversight only during day-time hours of 6 or fewer adults who are elderly, physically ill or infirm, physically handicapped or mentally handicapped.

⁴⁸ This definition was taken from the DeKalb County zoning ordinance. The term was used but not defined in the city's ordinance.

3. Child Day Care Center

A day care establishment operated by any person with or without compensation providing for the care, supervision and protection of 7 or more children who are under 18 years of age, without transfer of legal custody. Children who are related by blood, marriage, adoption or guardianship to the operators of the day care center must be included when computing the number of children within a child day care center. See also “kindergarten,” which is included in the educational services use classification.

4. Child Day Care Facility

A day care establishment operated by any person with or without compensation providing for the care, supervision and protection of 6 or fewer children who are under 18 years of age, without transfer of legal custody. Children who are related by blood, marriage, adoption or guardianship to the operators of the day care facility must be included when computing the number of children within a child day care facility.

27-8.30-E. Educational Services

The provision of tuition-based learning opportunities for academic or career advancement purposes.

1. College or University

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing schools, conservatories and seminaries.

2. Kindergarten

An establishment operated for compensation providing for the care, supervision, instruction and protection of 7 or more children who are under 7 years of age, without transfer of legal custody.

3. Elementary, Middle or Senior High Schools

Private schools at the primary, elementary, middle school (junior high) or senior high school level that provide state-mandated basic education.

27-8.30-F. Hospital

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

27-8.30-G. Place of Worship

A place of public assembly for religious worship that is maintained and controlled by a religious body organized to sustain public worship. Typical uses include synagogues, temples, mosques and churches. Typical accessory uses include schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, day care centers, kindergartens and similar uses.

27-8.30-H. Utility Facility, Essential

Structures and facilities necessary for the distribution of electricity, gas, water, storm-water, wastewater, communication, transportation or other similar service, excluding telecommunications towers, telecommunications antennas and public utility facilities.

27-8.40 Commercial Use Category

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use category includes the following use subcategories.

27-8.40-A. Adult Use**1. Adult Service Facility**

A commercial establishment in which ~~the patrons~~ are directly or indirectly ~~is~~ charged a fee to engage in private, personal contact with employees, ~~other~~ patrons or personnel, primarily for entertainment purposes. Adult service facilities include massage establishments using and steam rooms but do not include or other devices or equipment provided by the establishment, and that is not regulated as sexually oriented businesses or massage establishment. Massage therapy provided as an ancillary activity to a medical service use is not considered an adult service facility.

2. Body Art Service

Provision of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding or scarification. This definition does not include practices that are considered medical procedures by the Georgia Composite Medical Board, which may not be performed in a body art services establishment.

3. Sexually Oriented Business

An adult bookstore or adult video store, an adult cabaret, an adult motion picture theatre, a semi-nude model studio or a sexual device shop. See Sec. 27-9.190-C for additional definitions.

27-8.40-B. Animal Services

The following are animal services use subcategories:

1. Animal Care/Boarding

The keeping of and care for companion animals. Typical uses include boarding kennels, pet resorts/hotels, doggy or pet day care facilities, foster care homes, dog training centers and animal rescue shelters.

2. Animal Grooming

Grooming of companion animals. Typical uses include dog bathing and clipping salons and pet grooming shops.

3. Animal Hospital/Veterinary Clinic

Typical uses include pet and veterinary clinics, dog and cat hospitals and animal hospitals.

27-8.40-C. Communication Services

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Typical uses include recording studios, television and radio studios and telecommunication towers and antennas.

1. Telecommunication Facility

a. Telecommunications Antenna

Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

b. Telecommunications Tower

Any structure that is designed or constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term “telecommunications tower” includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

c. Alternative Tower Structure

A telecommunications tower, the visual presence of which is camouflaged or concealed in the form of a clock tower, campanile, light pole, artificial tree or similarly camouflaged telecommunications antenna-mounting structure.

27-8.40-D. Construction and Building Sales and Services

Establishments that provide services, supplies or equipment to construct, develop, repair maintain, or visually enhance a structure or premises. Typical uses include lumber yards, hardware stores, home improvement centers, equipment rental or sales, building contracting/construction businesses and janitorial services, pest control services, landscape maintenance contractors and window cleaning services. Hardware stores, paint stores and similar retail sales businesses that do not include any visible outdoor storage or display are classified under the “retail” use subcategory. Uses that involve only office or administrative functions with no on-site equipment or service vehicle storage are classified under the “office or consumer service” subcategory.

27-8.40-E. Eating and Drinking Establishments

Provision of prepared food and/or beverages for on- or off-premises consumption. Typical uses include ice cream shops, bakeries, coffee shops, cafes, restaurants and bars.

1. Food Truck⁴⁹

A licensed motor vehicle or other mobile food dispensation unit that is temporarily parked outside of the right-of-way and in which food items are sold to the general public.

27-8.40-F. Entertainment and Spectator Sports

Provision of cultural, entertainment, athletic and other events to spectators, such as typically occurs in theaters, cinemas, auditoriums, special events facilities, stadiums and arenas.

1. Special Events Facility

A meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, business conferences or similar activities, in which food and beverages may be served to guests.

27-8.40-G. Financial Services

Financial or securities brokerage services. Typical uses include federally chartered banks, credit unions, savings and loan associations, consumer investment advisory businesses, pawn shops and check-cashing establishments.

1. Convenient Cash Business

A check cashing establishment, precious metal broker other substantially similar business.

a. Check Cashing Establishment

Check cashing establishment means any establishment licensed by the State of Georgia pursuant to O.C.G.A. §7-1-700 et seq.

b. Precious Metal Broker

An establishment engaged in whole or in part in the business of buying gold, precious metals or jewelry.

2. Pawn Shop

An entity engaged in whole or in part in the business of lending money on the security of pledged goods (as that term is defined in O.C.G.A. §44-12-130(5)), or in the business of purchasing tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this definition.

27-8.40-H. Food and Beverage Retail Sales

Retail sale of food and beverages for off-premise consumption. Typical uses include groceries, liquor stores and wine stores.

⁴⁹ New

27-8.40-I. Funeral and Interment Services

Provision of services involving the care, preparation or disposition of human dead. The following are funeral and interment services use subcategories:

1. Cemetery/Columbarium/Mausoleum

Land or other facilities used for burial or interment of the dead, including pet cemeteries.

2. Cremating

Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums. (Note: cremating is also considered an accessory use to a cemetery, columbarium or mausoleum)

3. Undertaking

Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

27-8.40-J. Lodging

Provision of lodging ~~services~~ on a temporary basis, which may include with incidental food, drink and other sales and services intended for the convenience of overnight guests. Lodging is most typically offered for transient occupancy for periods of less than one month duration. The following are lodging use ~~categories~~:

1. Bed and Breakfast

A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

2. Hotel/Motel

An establishment, other than a bed and breakfast, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels and motels.

27-8.40-K. Medical Service

Personal health services including prevention, diagnosis and treatment services provided by physicians, dentists, nurses and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, including chiropractic offices, physical therapy offices, psychologist and psychiatrist offices, health maintenance organizations, blood banks and health centers.

27-8.40-L. Office or Consumer Service

Professional, governmental, executive, management or administrative offices. Typical uses include administrative offices, law offices, architectural and engineering firms, insurance companies, travel agencies, photography studios, tax preparation services and similar offices and consumer service businesses. Medical offices are included under the “medical services” use subcategory.

27-8.40-M. Parking, Non-Accessory

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular

use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.

27-8.40-N. Personal Improvement Service

Informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include hair salons, barber shops, beauty shops, nail salons, [day spas](#), [esthetician services](#), yoga or dance studios, personal fitness training studios, driving schools and martial arts schools. Health clubs are classified under the “participant sports and recreation” use subcategory.

27-8.40-O. Repair or Laundry Service, Consumer

Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), hand laundries, appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

27-8.40-P. Research Service

An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as “manufacturing and production, light.”

27-8.40-Q. Retail Sales

Businesses involved in the sale, lease or rent of new or used products or merchandise to consumers. Typical uses include drug stores, department stores, florists, quick-service copy shops, TV and electronics stores, jewelry stores, camera shops, bike shops, sporting goods stores, office supply stores, furniture stores and apparel stores.

27-8.40-R. Sports and Recreation, Participant

Provision of sports or recreation primarily by and for participants. (Spectators are incidental and on a nonrecurring basis). Examples include bowling alleys, health clubs, skating rinks, billiard parlors, driving ranges and miniature golf courses and batting cages.

27-8.40-S. Vehicle and Equipment Sales and Service

Sales or rental of motor vehicles and repair and maintenance services for motor vehicles. The following are vehicle sales and service use subcategories:

1. Car Wash

A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.

2. Gasoline Sales

Uses engaged in retail sales of personal automobile and vehicle fuels including electric vehicle charging stations. Note: Level 1 (slow-charging) and level 2 (medium) battery charging stations are considered accessory uses and are not regulated as auto fueling stations. Gasoline sales uses may include retail sales activities, such as convenience stores.

3. Vehicle Sales and Rentals

Sales of autos, trucks, motorcycles, trailers, recreational vehicles and boats, together with incidental maintenance activities. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicle sales and rental agencies.

4. Vehicle Repair, Minor

A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services. Also includes vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

5. Vehicle Repair, Major

Any vehicle repair activity other than “minor vehicle repair.” Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to motor vehicles.

6. Vehicle Storage and Towing

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services, private parking tow-aways (tow lots), impound yards and fleet storage yards.

27-8.50 Industrial Use Category

The industrial use category includes uses that produce goods and that store or distribute materials or goods in large quantities. The industrial use category includes the following use subcategories:

27-8.50-A. Manufacturing and Production, Light

Manufacturing or refurbishing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food processing and manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have few, if any, negative external impacts on surrounding properties.

27-8.50-B. Recycling Facilities

An establishment that collects, stores, or processes recyclable material for the purpose of marketing or reusing the material in the manufacturing of new, reused or reconstituted products.

1. Recyclable Material Drop-off Facilities

An establishment that accepts consumer recyclable commodities directly from the consuming party and accumulates or stores them for not more than 30 days. Establishments that process recyclable material are classified as “recyclable material processing facilities.” (Note: small consumer-oriented donation and (recycling) collection drop boxes for items such as clothes, books, newspapers, cans and glass items may be considered an accessory use, subject to the regulations of [Article 10.](#))

2. Recyclable Material Processing Facilities

Establishments that receive and process consumer recyclable commodities for subsequent use in the secondary market.

27-8.50-C. Warehousing, Wholesaling and Freight Movement

Temporary storage, wholesale sales or distribution of materials and equipment. Typical uses include storage warehouses, self-storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, wholesale sales of materials and equipment to entities other than the general public.

27-8.60 Agriculture and Transportation Use Category

The agricultural use category includes the following subcategories:

27-8.60-A. Agriculture

The use of land for agricultural purposes, including the growing of farm crops and raising or livestock and farm animals.

1. Community Garden⁵⁰

An area of land managed and maintained by an individual or group to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, sales or donation.

27-8.60-B. Transportation

Land and facilities used for or in support of the transport of people.

⁵⁰ New

Article 9 Supplemental Use Regulations

27-9.10 Animal Services

27-9.10-A. Animal Hospitals and Veterinary Clinics

1. All buildings and outdoor activity areas must be set back at least 100 feet from any property zoned or used for residential purposes. ~~When located within a shopping center, the use shall be adequately soundproofed and odor proofed so as not to create a nuisance; n~~
2. No boarding ~~or outdoor animal runs or kennels shall be are~~ allowed unless required in connection with medical treatment ~~or when located in a zoning district that allows animal boarding; and no outside runs or kennels shall be authorized.~~
3. When located in a multi-tenant center, the use must be adequately sound-proofed and odor-proofed, and pet food must be secured to avoid rodents.

27-9.10-B. Animal Care/Boarding and Animal Grooming

1. All buildings and outdoor activity areas associated with animal care/boarding and animal grooming uses must be set back at least 100 feet from any property zoned or used for residential purposes.
2. When located in a multi-tenant center, the use must be adequately sound-proofed and odor-proofed, and pet food must be secured to avoid rodents.

27-9.20 Attached Houses

The following building separation requirements apply to attached house buildings in RA-5 and RA-8 districts. For the purpose of these provisions, the front and rear faces are those exterior building walls generally perpendicular to the party walls between dwelling units and the side face is the exterior building wall that is generally perpendicular to the building's front and rear faces.

- 27-9.20-A. Building setbacks must be provided as required by the applicable zoning district requirements.
- 27-9.20-B. Buildings that are front face to front face, rear face to rear face, or front face to rear face must be separated by a distance of at least 60 feet.
- 27-9.20-C. Buildings that are side face to front face or rear face must be separated by a distance of at least 40 feet.
- 27-9.20-D. Buildings that are side face to side face must be separated by a distance of at least 20 feet.
- 27-9.20-E. Buildings may not exceed 250 feet in length along any elevation.⁵¹

⁵¹ The building spacing requirements of paragraph 6 are proposed for elimination because they appear redundant with those of paragraphs 2–4, and because the formula ($D = 4 + s + L/10$) does not appear to result in more useful spacing requirements.

~~27-9.20-F. Spacing between buildings within a single site, or the width of side and rear setbacks for all high-rise multifamily buildings within the RM-HD district, must be the greater of the zoning district requirements or the separation distance yielded by application of the following formula: $D = 4 + s + L/10$~~

~~Where:~~

~~D is the minimum required separation distance;~~

~~s is the number of stories in the building; and~~

~~L is the length of the building wall.~~

27-9.30 Bed and Breakfast

Bed and breakfast are subject to all of the following regulations:

- 27-9.30-A.** A bed and breakfast must be occupied by the owner or renter-occupant of the dwelling.
- 27-9.30-B.** The minimum lot area requirement for a bed and breakfast is 20,000 square feet.
- 27-9.30-C.** A dwelling must have a minimum floor area of at least 2,500 square feet in order to be used for a bed and breakfast.
- 27-9.30-D.** No separate kitchen facilities are allowed for the bed and breakfast.
- 27-9.30-E.** The exterior residential appearance of the dwelling must be maintained, and no signs other than those otherwise permitted within the subject zoning district are allowed.
- 27-9.30-F.** Meals may be served only to members of the resident household and to registered overnight guests of the bed and breakfast.
- 27-9.30-G.** Business and accounting records for the bed and breakfast use must be made available to the city upon request to verify compliance with regulations.
- 27-9.30-H.** Guests may not stay longer than 7 nights and may not re-register for a period of 30 days.

27-9.40 Car Washes

Wastewater from car washes must drain directly into the public sanitary sewer unless otherwise approved by the city. Car washes are subject to the drive-through requirements of Sec. 27-12.110.

27-9.50 Community Gardens⁵²

Community gardens are subject to the following regulations.

- 27-9.50-A.** A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group.
- 27-9.50-B.** Community garden group members may or may not reside on the subject property.
- 27-9.50-C.** Any structure used in conjunction with a community garden must comply with the following requirements:
 1. Be located at least 10 feet from any property line.

⁵² New provisions.

2. If the total area of structures used in conjunction with a community garden does not exceed 64 square feet, the structures are not considered accessory buildings. Otherwise, all structures used for community gardens are accessory buildings and must comply with all applicable accessory use and structure regulations.
 3. The following are not considered structures for the purposes of this section: benches, bike racks, cold-frames, hoop houses, raised/accessible planting beds, compost or waste bins, picnic tables, garden art, rain barrel systems and children's play areas.
- 27-9.50-D.** The site must be designed and maintained so that water will not drain onto adjacent property.
- 27-9.50-E.** Sales ~~and donation~~ activities may occur only in locations where retail sales are an allowed use, provided that on-site sales ~~and donation~~ of crops grown on a community garden site may be authorized as a temporary use in accordance with Sec. ~~27-11.30-C.~~

27-9.60 ~~Check Convenient Cash Businesses Establishments~~

- 27-9.60-A.** ~~Check cashing establishments~~ Convenient cash businesses are allowed only on lots with ~~direct access to frontage on a major thoroughfare arterial.~~⁵³
- 27-9.60-B.** ~~Check cashing establishments~~ Convenient cash businesses may not be located within 1,000 feet of an existing ~~convenient cash business~~ ~~check cashing establishment~~, pawn shop or liquor store. This separation distance must be measured as a straight-line distance between the main customer entrance doors of the existing and proposed uses or between the main customer entrance door of the proposed use and the lot line of the property occupied by the existing use, whichever method results in the greater separation distance.
- ~~Check cashing establishments may operate only as an independent use and may not be combined with any other use.~~

27-9.70 Day Cares

27-9.70-A. Adult Day Care Center

All outdoor recreation areas associated with adult day care centers must be enclosed by a fence or wall at least 4 feet in height.

27-9.70-B. Adult Day Care Facility

Adult day care facilities are subject to all of the following requirements:

1. All outdoor recreation areas must be enclosed by a fence or wall at least 4 feet in height.

~~No adult day care facility may be located within 1,000 feet of another adult day care facility.~~

⁵³ Change in terminology reflects city new transportation plan.

2. Persons seeking to operate an adult day care facility must file a permit application with the ~~public works~~-community development department. Each application must be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city-county. The ~~public works~~-community development department may require that the applicant provide additional information deemed necessary to determine whether the proposed facility will meet applicable laws, ordinances and regulations. If a proposed adult day care facility is required to obtain a certificate of registration from the state department of human resources, a permit for the operation of the facility may not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

27-9.70-C. Child Day Care Center

All outdoor play areas associated with child day care centers must be enclosed by a fence or wall at least 4 feet in height.

27-9.70-D. Child Day Care Facility

Child day care facilities are subject to all of the following requirements:

1. At least 30 square feet of indoor play area must be provided for each child, based on maximum allowed enrollment.
2. At least 100 square feet of outdoor play area must be provided for each child, based on maximum allowed enrollment. All outdoor play areas must be enclosed by a fence or wall at least 4 feet in height.
3. Not more than 50% of the floor area of a residence may be used for a child day care facility.
4. The exterior residential appearance of the dwelling must be maintained, and no signs other than those otherwise permitted within the subject zoning district are allowed. No cut-outs, animal characters, or other graphics may be affixed to the exterior of the building or displayed on the premises.

~~No child day care facility may be located within 1,000 feet of another child day care facility.~~

5. Persons seeking to operate a child day care facility must file a permit application with the ~~public works~~-community development department. Each application must be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child day care facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city-county. The ~~public works~~-community development department may require that the applicant provide additional information deemed necessary to determine whether the proposed facility will meet applicable laws, ordinances and regulations. If a proposed child day care facility is required to obtain a certificate of registration from the state department of human resources, a permit for the operation of

the facility may not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

6. In reviewing and acting on special land use permit applications for child day care facilities, authorized review and decision-making bodies must consider the following factors in addition to the generally applicable special land use permit approval criteria of Sec. 27-19.90:
 - a. Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility;
 - b. Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjacent properties so as not to adversely impact any adjoining land use;
 - c. Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility; and
 - d. Whether the character of the exterior of the proposed structure will be compatible with the residential character of any surrounding residential buildings.

27-9.80 Food Trucks⁵⁴

Food trucks are subject to all of the following regulations:

27-9.80-A. Food trucks may only be located on a lot containing a principal building or use.

27-9.80-B. The number of food trucks allowed per lot site is limited as follows:

1. A maximum of one food truck is allowed on lots sites with less than 20,000 square feet of lot land area.
2. On lots sites with an land area of 20,000 square feet or more, 2-one food trucks ~~are is~~ allowed per 20,000 square feet of land area or fraction thereof, plus one additional food truck for each additional 20,000 square feet of lot area above 20,000 square feet.
- ~~2.3.~~ For purposes of this provision, a site may consist of one lot or a combination of contiguous lots.
- ~~3.4.~~ The number of food trucks allowed may be increased above the limits established in this section if approved in accordance with the special land use permit procedures of Article 19.

27-9.80-C. Food trucks must be located at least 100 feet from the main entrance of any eating or drinking establishment and at least 100 feet from any outdoor dining area serving a non-food truck eating or drinking establishment.

27-9.80-D. Food trucks may not obstruct pedestrian, bicycle or vehicle circulation routes, and must be set back at least 5 feet from the edge of any driveway or public sidewalk and at least 15 feet from fire hydrants.

⁵⁴ New provisions.

- 27-9.80-E.** Food trucks and any associated seating areas may not occupy parking spaces provided to meet the minimum parking requirements of the principal use, unless the principal use's hours of operation do not coincide with those of the food truck business. Food trucks may not occupy any parking spaces reserved for persons with disabilities.
- 27-9.80-F.** No freestanding signs or audio amplification are allowed as part of the food truck's operation.
- 27-9.80-G.** Hours of operation of food trucks are limited to the hours between 6:00 a.m. and 11:00 p.m.
- 27-9.80-H.** Food trucks and associated outdoor seating must be removed from all permitted locations when not in operation.
- 27-9.80-I.** Operators are responsible for ensuring that all waste is disposed of in accordance with city regulations and for maintaining all areas used for food vending and customer activity in a safe and clean condition.

27-9.90 Gasoline Sales

- 27-9.90-A.** Gasoline pumps, [electric vehicle charging equipment](#) and other vehicle service areas must be set back at least 30 feet from all rights-of-way, provided that canopies over gas pump areas are subject to a minimum 15-foot setback.
- 27-9.90-B.** Major vehicle repair activities may be conducted in association with the gasoline sales uses only in those zoning districts that allow major vehicle repair uses.
- 27-9.90-C.** Rental of vehicles or trailers is allowed as an accessory use to a gasoline sales use if the subject lot is at least one acre in area. Parking or storage areas for vehicles or trailers available for lease or rental may be located only in side or rear yard areas.

27-9.100 Homeless Shelters and Transitional Housing Facilities

The maximum allowed capacity of any homeless shelter or transitional housing facility in the RM-150 district is 6 persons. In all other districts in which homeless shelters or transitional housing facilities are allowed, they may not exceed a maximum capacity of 20 persons.

27-9.110 Kindergartens

All outdoor recreation areas for a kindergarten must be enclosed by a fence or wall at least 4 feet in height.

27-9.120 Multi-unit Residential Buildings

The following building separation requirements apply to all multi-unit buildings in RM-150, RM-100, RM-85, RM-75, RM-HD districts.

- 27-9.120-A.** Building setbacks must be provided as required by the applicable zoning district requirements.
- 27-9.120-B.** Buildings that are front face to front face, rear face to rear face, or front face to rear face must be separated by a distance of at least 60 feet.
- 27-9.120-C.** Buildings that are side face to front face or rear face must be separated by a distance of at least 40 feet.

27-9.120-D. Buildings that are side face to side face must be separated by a distance of at least 20 feet.

27-9.120-E. Buildings may not exceed 250 feet in length along any elevation.⁵⁵

~~1. Spacing between buildings within a single site, or the width of side and rear setbacks for all high-rise multifamily buildings within the RM-HD district, must be the greater of the zoning district requirements or the separation distance yielded by application of the following formula: $D = 4 + s + L/10$~~

~~Where:~~

~~D is the minimum required separation distance;~~

~~s is the number of stories in the building; and~~

~~L is the length of the building wall.~~

27-9.130 Parking, Non-accessory

Non-accessory parking garages may include gasoline pumps if the pumps are located entirely within the parking garage structure.

27-9.140 Pawn Shops

The following provisions apply to all pawn shop uses:

27-9.140-A. Pawn shops are allowed only on lots with direct access frontage on a major ~~thoroughfare~~ arterial.⁵⁶

27-9.140-B. Pawn shops may not be located within 1,000 feet of an existing pawn shop or ~~check cashing establishment~~ convenient cash business. This separation distance must be measured as a straight-line distance between the main customer entrance doors of the existing and proposed uses or between the main customer entrance door of the proposed use and the lot line of the property occupied by the existing use, whichever method results in the greater separation distance.

27-9.150 Personal Care Homes

Congregate personal care homes may be approved in R districts only when located on a campus with a land area of at least 25 acres.

27-9.160 Places of Worship, Convents and Monasteries

The following regulations apply to places of worship, convents, monasteries and their accessory uses:

27-9.160-A. In residential zoning districts, places of worship, convents and monasteries require a minimum lot area of 3 acres, with a minimum public street frontage of 100 feet. These minimum lot area and frontage regulations apply only to places of worship, convents and monasteries developed or established after July 29, 1970.

⁵⁵ The building spacing requirements of paragraph 6 are proposed for elimination because they appear redundant with those of paragraphs 2–4, and because the formula ($D = 4 + s + L/10$) does not appear to result in more useful spacing requirements.

⁵⁶ Change in terminology reflects city new transportation plan.

- 27-9.160-B.** Places of worship, convents and monasteries in residential districts are allowed only on lots with ~~shall be located only frontage~~ on a major or minor ~~thoroughfare arterial~~.⁵⁷ These minimum lot area and frontage regulations apply only to places of worship, convents and monasteries developed or established after July 29, 1970. Any place of worship, convent or monastery with frontage on a street other than a major or minor arterial is considered a nonconforming use if constructed pursuant to a development permit issued between July 30, 1970 and April 13, 1999.
- 27-9.160-C.** Uses, buildings or structures operated by a place of worship that are not specifically included within the “place of worship” use subcategory (See Sec. [27-8.30-G](#)) are allowed only in districts where those uses are allowed.

27-9.170 Residential Infill

The residential infill regulations of this subsection apply to detached houses:

27-9.170-A. Building Height

1. Replacement of a Detached House

The proposed front door threshold elevation for any new detached house may not be more than 2 feet higher than the front door threshold elevation of the residential structure that existed on the lot prior to demolition (see Figure 9-1). If there was no previous residential structure on the subject lot, then the proposed front door threshold elevation for a new detached house on the lot may not be more than 2 feet higher than the average elevation of the existing natural grade at the front building line (see Figure 9-2). If the proposed construction would require alteration or eradication of the original threshold, then the original elevation must be measured and certified by a licensed surveyor or engineer.

2. Threshold Averaging

The community development director is authorized to approve proposed front door threshold elevations for new detached houses that exceed the threshold elevation allowed by Sec. [27-9.170-A](#) if the applicant for a building permit establishes that the elevation of the front door threshold of the proposed residential structure does not exceed the average elevation of the front door thresholds of the residential structures on both lots immediately abutting the subject lot (see Figure 9-2). When using threshold averaging, the height of the new residence may not exceed 35 feet, measured as the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure. The applicant must provide the community development director with the threshold elevations, as certified by a licensed surveyor or engineer.

⁵⁷ Change in terminology reflects city new transportation plan.

Figure 9-1: Residential Infill, Maximum Height Based on Previously Existing Threshold

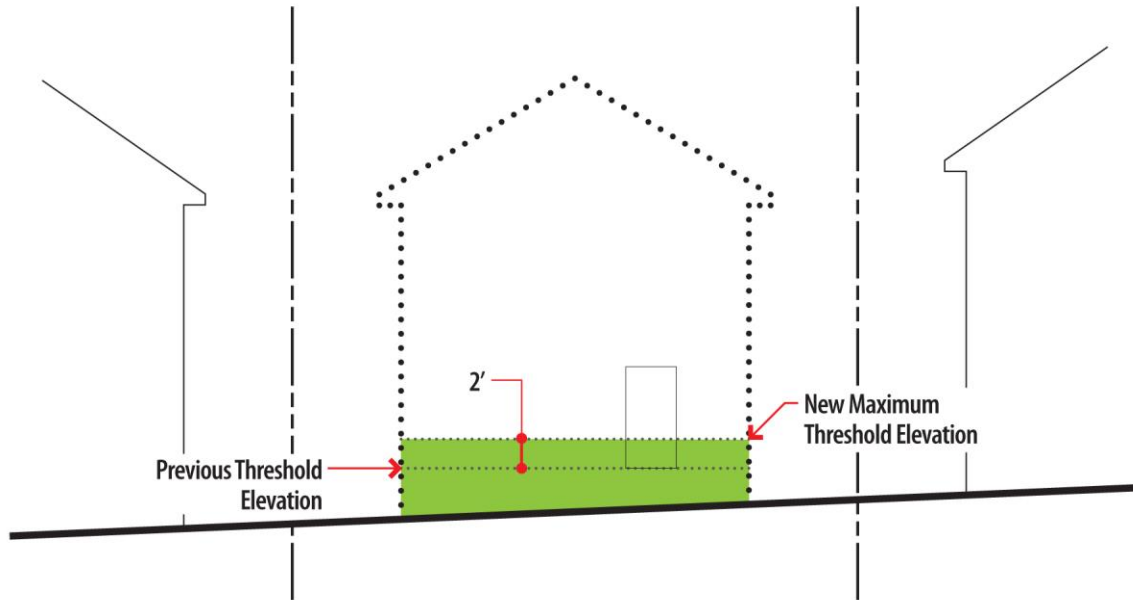
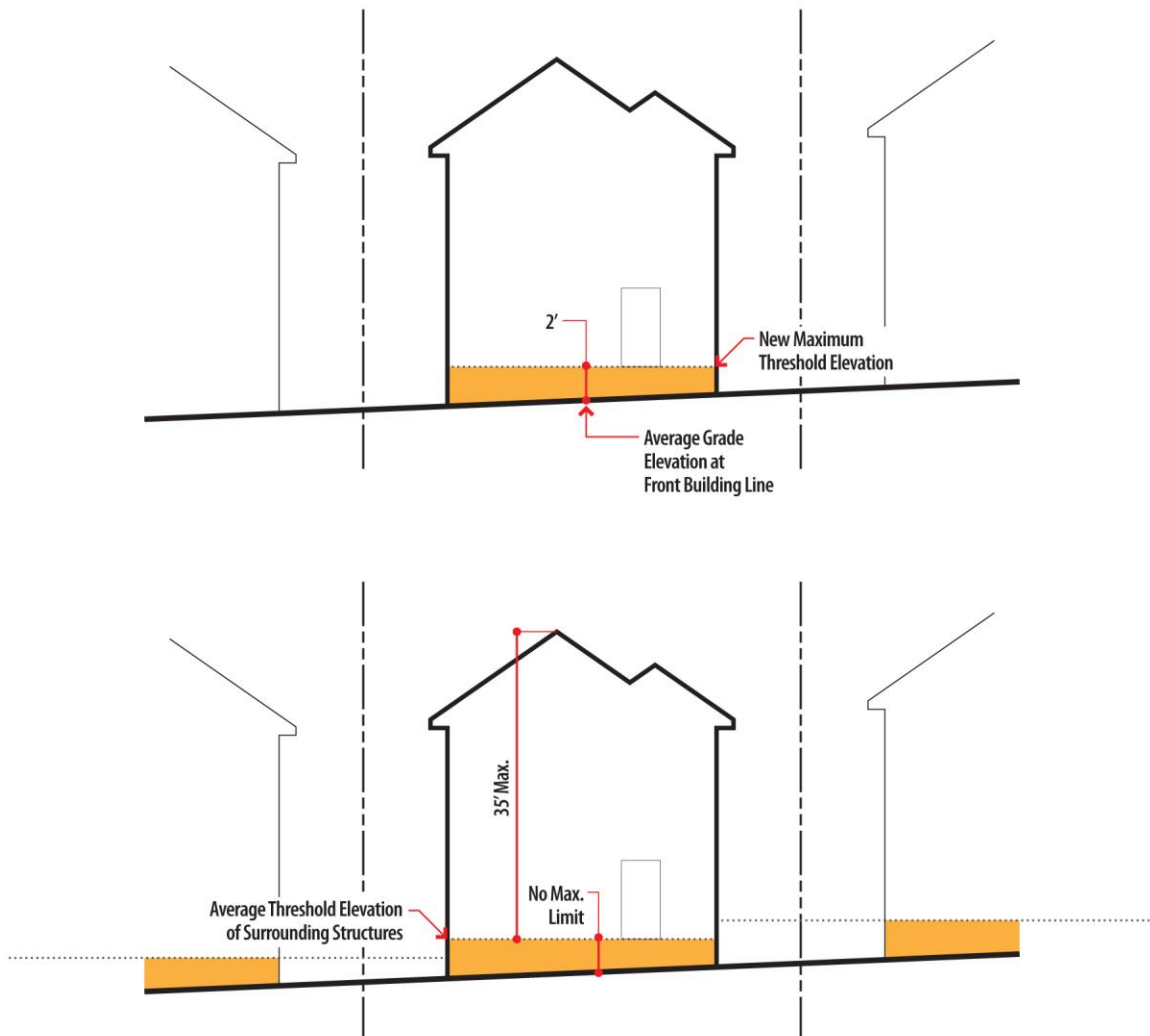


Figure 9-2: Residential Infill, Maximum Height Based on Average Grade Elevation at Front Building Line and “Averaging”



3. Sewer Elevation

If an existing dwelling or lot is not connected to county sewer and if the community development director determines that the proposed residence is unable to be connected to county sewer within the allowable front door threshold height, then the community development director is authorized to approve a maximum 3-foot increase in threshold height above the threshold elevation allowed by Sec. [27-9.170-A](#) allowing for gravity flow into the existing sewer tap. The community development director's determination must be based on sewer line elevation data and other evidence provided by the applicant and any other pertinent information available to the director.

4. Topographical Conditions

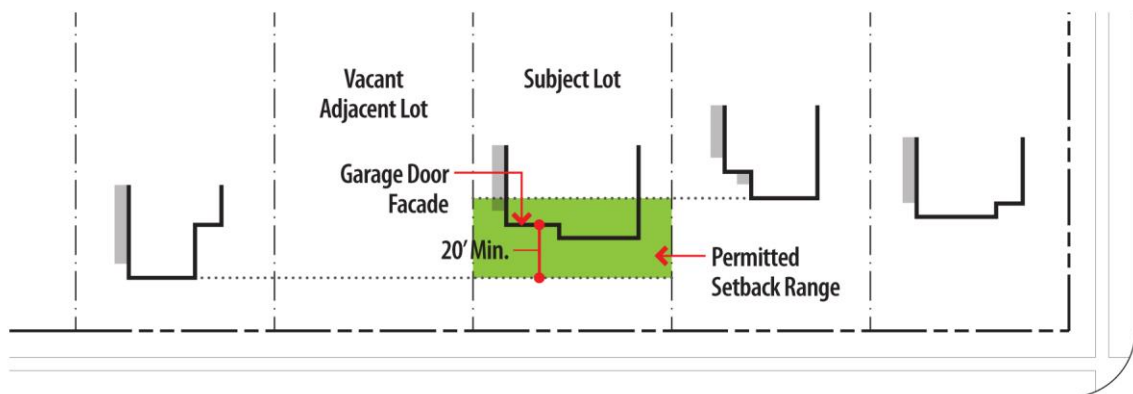
If exceptional topographical restrictions exist on the subject lot that were not created by the owner or applicant, the community development director is authorized to approve a maximum 3-foot increase in threshold height above the threshold elevation allowed by Sec. [27-9.170-A](#). The applicant must provide a site plan, including topography, certified by an engineer or landscape architect.

27-9.170-B. Contextual Street Setbacks⁵⁸

Detached houses constructed on block faces that are occupied by 2 or more existing detached houses must comply with the contextual street setback regulations of this subsection.

1. The street facing façade of a detached house subject to these contextual street setback regulations must be located within the range of street setbacks observed by detached houses that exist on the nearest 2 lots on either side of the subject lot.
2. If one or more of the nearest 2 lots on either side of the subject lot is vacant, the vacant lot will be deemed to have a street setback depth equal to the minimum street setback requirement of the subject zoning district.

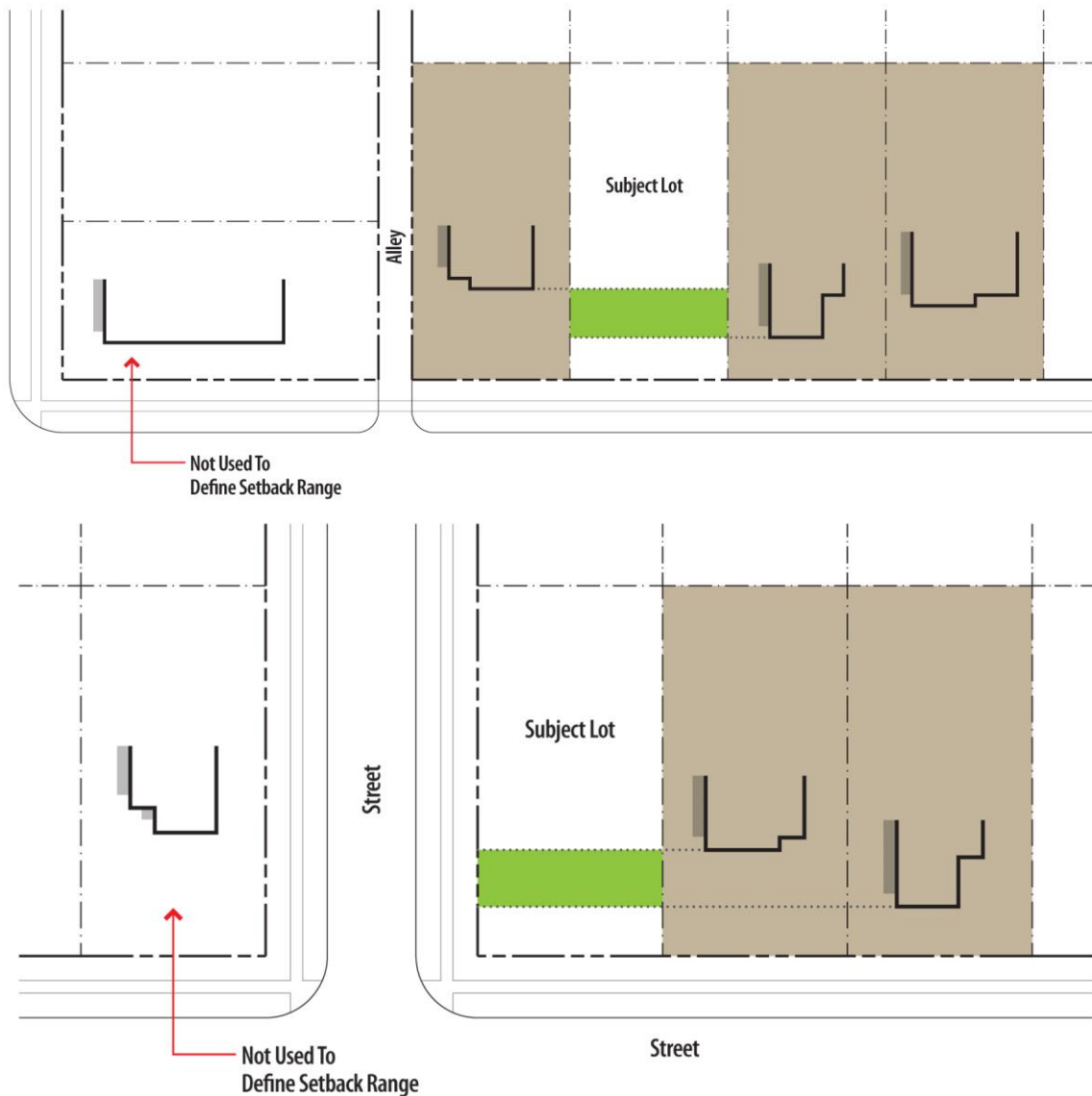
Figure 9-3: Residential Infill, Contextual Setbacks (1)



⁵⁸ These are new; added in response to public comments regarding the possible need for additional controls on residential infill development.

3. Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in determining the street setback range (see Figure 9-4).

Figure 9-4: Residential Infill, Contextual Setbacks (2)



4. If the subject lot is a corner lot, the street setback range must be determined on the basis of the nearest 2 lots with frontage on the same street as the subject lot.
5. If the subject lot abuts a corner lot with frontage on the same street, the street setback range must be determined on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.
6. These contextual street setback regulations may not be used to reduce the setback of a street-facing garage door to less than 20 feet.

27-9.170-C. Building Plans

Building plans for a detached house must be submitted for review and approval prior to issuance of a building permit. Plans must contain all information necessary to determine compliance with the building code and this zoning ordinance.

27-9.180 Schools, (Private) Elementary, Middle or Senior High

The following minimum lot area requirements apply to private elementary, private middle schools and private senior high schools that require special land use approval:

- 27-9.180-A.** Elementary school: 5 acres plus one additional acre for each 100 students, based on the design capacity of the school.
- 27-9.180-B.** Middle school: 12 acres plus one additional acre for each 100 students, based on the design capacity of the school.
- 27-9.180-C.** High school: 20 acres plus one additional acre for each 100 students, based on the design capacity of the school.

27-9.190 Sexually Oriented Businesses**27-9.190-A. Purpose**

It is the purpose of the city zoning ordinance to regulate land use by sexually oriented businesses in order to promote the health, safety, moral and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

27-9.190-B. Findings and Rationale

1. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the mayor and city council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350

(11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 2000 F.3d 1325 (11th Cir. 200); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food and Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Gammon v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and *Fairfax MK, Inc. v. City of Clarkston*, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998); *World Famous Dudley's Food and Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 214 (1978); and

2. Based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota);
3. The mayor and city council finds:

- a. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter and sexual assault and exploitation.
 - b. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
 - c. Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this article, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this article are reasonably believed to be relevant to said secondary effects.
4. The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

27-9.190-C. Definitions

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

1. *Adult bookstore or adult video store* means a commercial establishment which, as one of its substantial business activities, offers for sale or rental for any form of consideration any one or more of the following items: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A substantial business activity exists where the commercial establishment meets any one or more of the following criteria:
 - a. At least 25% of the establishment's displayed merchandise consists of the foregoing items;
 - b. At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items;

- c. At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of the foregoing items;
 - d. At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items;
 - e. The establishment maintains at least 25% of its interior business space for the display, sale and/or rental of the foregoing items (aisles and walkways used to access those items are included in interior business space maintained for the display, sale, or rental of said items);
 - f. The establishment maintains at least 500 square feet of its interior business space for the display, sale and/or rental of the foregoing items (aisles and walkways used to access those items are included in interior business space maintained for the display, sale, or rental of said items) and limits access to the premises to adults only;
 - g. The establishment offers for sale or rental at least 1,000 of the foregoing items and limits access to the premises or to the portion of the premises occupied by said items to adults only;
 - h. The establishment regularly advertises itself or holds itself out, using "adult," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or
 - i. The establishment maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.
2. *Adult cabaret* means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly feature persons who appear semi-nude.
3. *Adult motion picture theater* means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.
4. *Characterized by* means describing the essential character or quality of an item. As applied in this article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

5. *Interior business space* means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.
6. *Nudity or state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
7. *Operate or cause to operate* means to cause to function or to put or keep in a state of doing business. The term "operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.
8. *Premises* means the real property upon which the sexually oriented business is located and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.
9. *Regularly* means the consistent and repeated doing of an act on an ongoing basis.
10. *Semi-nude or state of semi-nudity* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition includes the lower portion of the human female breast, but does not include any portion of the cleavage of the human female breast exhibited by a bikini, dress, blouse, shirts, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
11. *Semi-nude model studio* means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:
 - a. By a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - c. In a structure:

- (1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - (2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
12. *Sexual device* means any three-dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and includes devices such as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
13. *Sexual device shop* means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not restrict access to its premises or a portion of its premises to adults only.
14. *Sexually oriented business* means an adult bookstore or adult video store, an adult cabaret, an adult motion picture theatre, a semi-nude model studio, or a sexual device shop.
15. *Specified anatomical areas* mean and include:
 - a. Less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
16. *Specified sexual activity* means any of the following:
 - a. Intercourse, oral copulation, masturbation or sodomy; or
 - b. Excretory functions as a part of or in connection with any of the activities described in subsection (1) of this definition.

27-9.190-D. Standards

1. Sexually oriented businesses are subject to the following standards:
 - a. It is unlawful to establish, operate, or cause to be operated a sexually oriented business in the city, unless said sexually oriented business is at least:
 - (1) 500 feet from any parcel in the city zoned ~~R-200~~, R-150, ~~R-30,000~~, ~~R-20,000~~, R-100, R-85, R-75, R-60, RA-5, R-50, RA-8, ~~R-CH~~, ~~R-CD~~, ~~R-DT~~, RM-150, RM-100, RM-85, RM-75, or RM-HD, ~~MHP~~, ~~TND~~, or ~~NCD~~;
 - (2) 600 feet from any business in the city licensed by the state to sell alcohol on the premises; and

- (3) 1,000 feet from any house-place of worship or a public or private elementary or secondary school in the city.
- b. For the purpose of this subsection, measurements must be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the sexually oriented business parcel to the closest point on a boundary line of any parcel in the city zoned ~~R-200~~, R-150, ~~R-30,000~~, ~~R-20,000~~, R-100, R-85, R-75, R-60, RA-5, R-50, RA-8, ~~R-CH~~, ~~R-CD~~, ~~R-DT~~, RM-150, RM-100, RM-85, RM-75, or RM-HD, ~~MHP~~, ~~TND~~, or ~~NCD~~. Measurements must be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the sexually oriented business to the closest part of any structure in the city occupied by a house of worship, public or private elementary or secondary school, or a business licensed by the state to sell alcohol on the premises.
2. All sexually oriented businesses must submit with the application for a building or occupancy permit, a certified boundary survey by a licensed surveyor of the site and the property lines of surrounding properties identifying the use of properties at or within 1,000 feet of the boundary lines of the subject property.
3. Each sexually oriented business must provide off-street parking spaces as required by Article 12.

27-9.200 Telecommunications Towers and Antennas

The regulations of this section apply to all telecommunications towers and antennas.

27-9.200-A. Co-located Antennas

Antennas that are attached or affixed to existing telecommunications towers or other existing structures are permitted as of right in all zoning districts, provided that the antenna does not project higher than 10 feet above the height of the structure to which it is attached. Antennas that project more than 10 feet above the height of the structure to which they are attached require administrative permit approval in accordance with Article 23. Building-mounted antennas in residential zoning districts must be visually screened from view of all abutting lots. Building-mounted antennas in other zoning districts must be screened or designed and installed so as to make the antenna and related equipment as visually unobtrusive as possible.

27-9.200-B. Federal Law

The regulations of this section must be applied within the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle Class Tax Relief and Job Creation Action of 2012.

27-9.200-C. Regulations

1. Telecommunication towers ~~or antenna~~ that require administrative permit approval are subject to the following setbacks:
 - a. If located on a lot abutting a residential zoning district or a lot occupied by a residential use, the tower must be set back from the zoning district or lot

b. If located on a lot abutting a nonresidential or mixed-use district that is not occupied by a residential dwelling, the tower must be set back from the abutting lot by a minimum distance of 33% of the overall height of the tower ~~and antenna~~ or 200 feet, whichever is greater.

- City of Dunwoody | DRAFT Zoning Ordinance | May 30, 2013

documenting the reasons for the denial and the evidence in support of the decision. Decisions must be made within a reasonable time from the date a completed application is duly filed.

11. Each applicant requesting approval of a telecommunications tower ~~or antenna~~ must provide to the community development director as a part of the application an inventory of its existing towers that are either within the city or within one-quarter mile of the city boundaries, including information regarding the location, height and design of each tower. The community development director may share this information with other applicants or with other organizations seeking to locate a telecommunications tower ~~or antenna~~ within the city. In sharing this information, the community development director is not in any way representing or warranting that the sites are available or suitable.
12. No new telecommunication tower may be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence must be submitted at the time of application demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna and may consist of one or more of the following:
 - a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements;
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable; or
 - f. There are other limiting factors that render existing towers and structures unsuitable.
13. The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise authorized telecommunication tower or antenna is specifically authorized.
14. Any telecommunications antenna or tower that is not operated for a continuous period of 6 months will be considered abandoned, and the owner of such antenna or tower must remove the antenna or tower within 90 days of receipt of notice from the city.

27-9.200-D. Special Land Use Permit Approval Criteria

In reviewing and acting on special land use permit applications for telecommunication towers, authorized review and decision-making bodies must consider the following factors in addition to the generally applicable special land use permit approval criteria of Sec. ~~27-19.90~~:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree cover and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
7. Compliance with telecommunication tower regulations of this section.

27-9.210 Utility Facilities, Essential

~~All essential utility structures must provide security fencing and landscaping to lessen the visual impact of such structures on adjoining property. Noise resulting from temporary construction activity pursuant to a valid development or building permit, that is not a part of the usual and ongoing operation of the use on the site, that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section. Such~~ Essential utility facility structures are subject to the lot and building regulations of the subject zoning district ~~shall be built only within the buildable area of any lot where permitted or authorized and shall meet all requirements of the district in which such structure facility is located.~~

27-9.220 Vehicle Repair, Major

- 27-9.220-A.** Major vehicle repair uses may not be located within 300 feet of school, park, playground or hospital, as measured between lot lines.
- 27-9.220-B.** Major vehicle repair uses may not be located on a lot that is adjacent to or directly across the street from any R or RM district.
- 27-9.220-C.** All service and repair activities must be conducted entirely within an enclosed building.

27-9.230 Vehicle Repair, Minor

All minor vehicle repair establishments must be conducted entirely within an enclosed building. ~~In a shopping center, minor automobile repair and maintenance is permitted only as a part of an automobile service station.~~

Auto Parts Store

~~Unless otherwise authorized or permitted within the applicable zoning district, the following limitations apply to the conduct of retail sale of automobile parts and tire stores:~~

- ~~There shall be no dismantling of vehicles on the premises to obtain automobile parts.~~
- ~~There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.~~

~~Major automobile repair shall not be permitted in connection with these uses.~~

27-9.240 Vehicle Sales and Rental

27-9.240-A. Vehicle sales and rental uses require a minimum lot area of one acre.

27-9.240-B. All vehicles and trailers must be set back at least 30 feet from all rights-of-way. ~~All parking areas must be clearly marked and no vehicles or trailers may be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall be no less than one acre in area, but such lot size requirement shall be reduced to one half acre in area if the owner of the affected automobile, truck and trailer lease and rental entity provides written proof to the community development director or designee that 100 or more of the owner's vehicles available for lease or rental are registered in the city. If the lot is one half acre in area, at no time shall the number of vehicles parked on the lot exceed 25 vehicles.~~

27-9.250 Vehicle Storage and Towing

27-9.250-A. Vehicle storage and towing uses may not be located within 1,000 feet of any residential district or lot containing a residential use, as measured between lot lines.

27-9.250-B. Vehicle storage and towing uses must be enclosed by a wall that is at least 8 feet in height and that provides complete visual screening of stored vehicles.

27-9.250-C. No dismantling, repair or other activity may be conducted on the premises.

27-9.250-D. Vehicles at impound or towing establishments may not be held longer than provided by state ~~and county~~ law.

Commercial Recreation and Entertainment

~~The following shall apply to commercial recreation and entertainment uses:~~

Drive-in theaters

~~The following provisions shall apply to drive-in theaters:~~

- ~~a. — The theater screen, projection booth or other buildings shall be set back not less than 50 feet from any property line.~~
- ~~b. — Driving and parking areas shall be paved.~~
- ~~c. — Ingress and egress from a public street shall be so designed and constructed as to provide for safe traffic movement.~~
- ~~d. — Central loudspeakers shall be prohibited.~~
- ~~e. — The theater screen shall not be visible from any freeway or principal or major arterial street.~~
- ~~f. — The theater shall be enclosed by a six foot screening fence and shall provide a buffer area ten feet in width.~~

Fairgrounds and amusement parks

~~The following provisions shall apply to fairgrounds and amusement parks:~~

- ~~a. — All buildings and structures associated with such uses shall be set back not less than 200 feet from any property line.~~
- ~~b. — Such uses shall not be permitted within 500 feet of a residential district.~~
- ~~c. — Such facilities shall be enclosed by a six foot screening fence.~~

Golf driving ranges and batting cage facilities

~~The following provisions shall apply to golf driving ranges and batting cage facilities:~~

- ~~a. — Such uses shall be enclosed by a six foot screening fence and a buffer area ten feet in width to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.~~

Miniature golf courses

~~The following provisions shall apply to miniature golf courses:~~

~~a. — Such uses shall be enclosed by a six foot screening fence and a buffer ten feet in width to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.~~

Golf courses

~~The following provisions shall apply to golf courses:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Except for emergency purposes, loudspeakers shall be prohibited.~~

~~c. — Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.~~

~~Recreation grounds, fishing lakes and other related facilities~~

~~The following provisions shall apply to recreation grounds and facilities:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.~~

Tennis centers, clubs and facilities

~~The following provisions shall apply to tennis centers, clubs and facilities:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.~~

Go-cart concessions

~~The following provisions shall apply to go-cart concessions:~~

~~a. — All buildings and structures associated with such use shall be set back not less than 200 feet from any property line.~~

~~b. — Such use shall not be permitted within 500 feet of the boundary of a residential district.~~

~~c. — Such use shall be enclosed by a six foot wall.~~

~~d. — The maximum motor size of any cart used shall not exceed five horsepower.~~

~~e. — The maximum area occupied by the facility shall not exceed 40,000 square feet.~~

Article 10 Accessory Uses

27-10.10 Generally Applicable Regulations

27-10.10-A. Accessory Uses Allowed

Accessory uses and structures are permitted in connection with lawfully established principal uses.

27-10.10-B. Accessory Use Determinations

The community development director is authorized to determine when a use, building or structure meets the criteria of an accessory use or accessory structure. In order to classify a use or structure as “accessory” the community development director must determine that the use or structure:

1. Is customarily found in conjunction with the subject principal use or principal structure;
2. Is subordinate and clearly incidental to the principal use; and
3. Provides a necessary function for or contributes to the comfort, safety or convenience of occupants of the principal use.

27-10.10-C. Time of Construction and Establishment

1. Accessory uses may be established only after the principal use of the property is in place.
2. Accessory buildings may be established in conjunction with or after the principal building. They may not be established before the principal building is in place.

27-10.10-D. Location

Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly stated.

27-10.10-E. Accessory Buildings and Structures

1. Applicable Regulations and Standards

Accessory buildings and structures are subject to the same regulations and standards as apply to principal uses and structures on the subject lot, unless otherwise expressly stated. Accessory buildings attached to the principal building by a breezeway, passageway or similar means are subject to the building setback regulations that apply to the principal building.

2. Building Separation

Accessory buildings must be separated by a minimum distance of 10 feet from the principal building on the lot, unless the accessory building is located entirely within the principal building setbacks, in which case no separation is required.

27-10.20 Amateur Radio Service Antenna Structures

Amateur radio service antenna structures over 70 feet in overall height require review and approval in accordance with the special land use permit procedures of [Article 19](#). All amateur radio service antenna structures must be set back from all property lines a distance equal to at least one-half the height of the structure's overall height.

27-10.30 Home Occupations

27-10.30-A. Purpose⁵⁹

The home occupation regulations of this section are intended to allow Dunwoody residents to engage in customary home-based work activities, while also helping to ensure that neighboring residents are not subjected to adverse operational and land use impacts (e.g., excessive noise or traffic or public safety hazards) that are not typical of residential neighborhoods.

27-10.30-B. Type A and Type B Home Occupations

Two types of home occupations are defined and regulated under this section: Type A and Type B.

1. Type A Home Occupations

Type A home occupations are those in which household residents use their home as a place of work, with no employees, customers or clients coming to the site. Typical examples include telecommuting office workers, writers, consultants, artists and crafts people.

2. Type B Home Occupations

Type B home occupation are those in which household residents use their home as a place of work and either one non-resident employee or customers come to the site. Typical examples include tutors, teachers, photographers and licensed therapists or counselors.

27-10.30-C. Exemptions

1. Personal Care Homes

Personal care homes are not regulated as home occupations and are exempt from the home occupation regulations of this section. Personal care homes are allowed as indicated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to some personal care homes can be found in Sec. [27-9.150](#).

⁵⁹ These draft home occupations represent a substantive modification of the regulations found in 27-1321 of the current ordinance.

2. Day Care

Day care uses are not regulated as home occupations and are exempt from the home occupation regulations of this section. Day care uses are allowed as indicated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to some day care uses can be found in Sec. [27-9.70](#).

3. Bed and Breakfast

Bed and breakfasts are not regulated as home occupations and are exempt from the home occupation regulations of this section. Bed and breakfasts are allowed as indicated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to bed and breakfasts can be found in Sec. [27-9.30](#).

27-10.30-D. Prohibited Home Occupations

The following uses are expressly prohibited as home occupations:

1. any type of assembly, cleaning, maintenance or repair of vehicles or equipment with internal combustion engines or of large appliances (such as washing machines, clothes dryers or refrigerators);
2. dispatch centers or other businesses where employees come to the site and are dispatched to other locations;
3. equipment or supply rental businesses;
4. taxi, limo, van or bus services;
5. tow truck services;
6. taxidermists;
7. restaurants;
~~tattoo, piercing;~~
~~fortune telling or psychic services~~
8. funeral or interment services;
9. animal care, grooming or boarding businesses; and
10. any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.

27-10.30-E. Where Allowed**1. Type A Home Occupations**

Type A home occupations are permitted as of right as an accessory use to a principal use in the household living use category. Type A home occupations are subject to the general regulations of Sec. [27-10.30-F](#) and all other applicable regulations of this section. More than one Type A home occupation is allowed as an accessory use, but the general regulations of Sec. [27-10.30-F](#) apply to the combined home occupation uses.

2. Type B Home Occupations

Type B home occupations may be approved as an accessory use to a principal use in the household living use category only as expressly stated in Sec. [27-10.30-G](#). Type B home occupations are subject to the general regulations of Sec. [27-10.30-F](#), the supplemental regulations of Sec. [27-10.30-G](#) and all other applicable regulations of this section. Multiple Type B home occupations are prohibited as an accessory use to a household living use, and a Type A home occupation may not be conducted with a Type B home occupation.

27-10.30-F. General Regulations

All Type A and Type B home occupations are subject to the following general regulations.

1. Home occupations must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Home occupations may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts to that are not typical of a residential neighborhood in Dunwoody. Home occupations must be operated so as not to create or cause a nuisance.
2. Any tools or equipment used as part of a home occupation must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.
3. External structural alterations or site improvements that change the residential character of the lot upon which a home occupation is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting or the addition of a separate building entrance that is visible from abutting streets.
4. Signs that directly or indirectly, name, advertise, or call attention to a business, product, service or other commercial activity occurring on the subject property are prohibited.
5. Home occupations and all related activities, including storage (other than the lawful parking or storage of vehicles), must be conducted entirely within the dwelling unit.
6. The area devoted to the conduct of all home occupations present on the property is limited to 25% of the dwelling unit's floor area or 500 square feet, whichever is less.
7. No window display or other public display of any material or merchandise is allowed.
8. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 C.F.R. Sec. 171.8.

9. Only passenger automobiles, passenger vans and passenger trucks may be used in the conduct of a home occupation. No other types of vehicles may be parked or stored on the premises.
10. The provisions of paragraph 9 (above) are not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, united parcel service, FedEx, et al.) of the type typically used in residential neighborhoods.

27-10.30-G. Supplemental Regulations for Type B Home Occupations

Type B home occupations are subject to the following regulations in addition to the general regulations of Sec. 27-10.30-F.

1. Customers or clients may visit the site only from 8 a.m. to 8 p.m. No more than 2 clients or customers may be present at any one time, except that up to 3 students may be present at one time in a teaching-related home occupation (e.g., tutor or music/dance instructor).
2. One nonresident employee is allowed with a Type B home occupation if no customers come to the site at any time. Home occupations that have clients, customers or students coming to the site at any time may not have nonresident employees. For the purpose of this provision, the term “nonresident employee” includes an employee, business partner, co-owner or any other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
3. No stock in trade may be displayed or kept for sale on the premises and no on-premise sales may be conducted.
4. Teaching-related home occupations are permitted as of right. ~~subject to the administrative permit procedures.~~ All other Type B home occupations are subject to approval of an ~~special land use permit~~ administrative permit in accordance with Article 23.

27-10.40 Electric Vehicle Charging Stations

27-10.40-A. General⁶⁰

1. Private (restricted-access) electric-vehicle (EV) charging stations are permitted as accessory uses in all zoning districts.
2. Public EV charging stations are permitted as accessory uses to allowed nonresidential uses in all zoning districts.

27-10.40-B. Parking

1. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.

⁶⁰ These proposed regulations are entirely new.

2. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle.

27-10.40-C. Equipment

Vehicle charging equipment must be designed and located so as to not impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

27-10.40-D. Signage

1. Information must be posted identifying voltage and amperage levels and any type of use, fees, or safety information related to the electric vehicle charging station.
2. Public electric vehicle charging stations must be posted with signage indicating that the space is reserved for electric vehicle charging purposes only. For purposes of this provision, “charging” means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.

27-10.40-E. Maintenance

Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number or other contact information must be provided on the equipment for reporting when it is not functioning or other problems are encountered.

27-10.50 Geothermal Energy Systems

27-10.50-A. General⁶¹

Geothermal energy systems are permitted as an accessory use in all zoning districts.

27-10.50-B. Location

1. Geothermal energy systems must be located entirely within the lot lines of the subject property or within appropriate easements.
2. No portion of a geothermal energy system may be located within a stream or stream buffer.

27-10.60 Residential Composting

- 27-10.60-A.** The composting of landscape waste (including grass clippings, leaves, and chipped brush) and food waste (including discarded fruits, vegetables, and grains) is an allowed accessory use in residential zoning districts, subject to the regulations of this section.⁶²

⁶¹ These proposed regulations are entirely new.

⁶² These proposed regulations are entirely new.

- 27-10.60-B.** Only landscape waste generated from plants grown and maintained on the subject lot may be composted. This provision is not intended to prohibit property owners from adding “outside” materials or ingredients to speed or enhance decomposition.
- 27-10.60-C.** Only food waste resulting from food preparation or consumption by residents of the subject lot and their visitors may be composted. This provision is not intended to prohibit property owners from adding “outside” materials or ingredients to speed or enhance decomposition.
- 27-10.60-D.** All food waste must be placed within rodent-resistant compost bins, which are set back at least 10 feet from all lot lines.
- 27-10.60-E.** Landscape waste compost piles may not exceed 125 cubic feet in volume, and may not exceed 5 feet in height.⁶³
- 27-10.60-F.** Landscape waste compost piles must be set back at least 10 feet from all lot lines. Landscape waste compost piles that are not contained within a rodent-resistant compost bin must be set back at least 30 feet from all dwelling units on abutting lots.
- 27-10.60-G.** No animal waste is allowed within compost piles or bins.
- 27-10.60-H.** Burning of compost piles is not allowed.

27-10.70 Satellite Dish Antennas

27-10.70-A. Where Allowed

1. Satellite dish antennas up to ~~36~~40 inches in diameter are permitted as of right in all zoning districts. They are subject to all applicable accessory structure setback regulations.
2. Satellite dish antennas over 40 inches in diameter, up to 120 inches in diameter, are permitted as of right in nonresidential and mixed-use zoning districts. They are subject to all applicable accessory structure setback regulations.

27-10.70-B. Location

1. In multi-unit residential (RM), nonresidential and mixed-use districts, satellite antennas may be located anywhere in the buildable area of the lot (outside of required setbacks) or on an allowed principal or accessory building on the lot.
2. In detached house and attached house (R and RA) districts satellite antennas may be located only to the rear of any principal structure. If usable communication signals cannot be obtained from a rear location, the satellite antenna may be located in the side yard. Both locations are subject to applicable zoning district setbacks.
3. If usable satellite communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, the antenna may be placed in the front yard or on the roof in a location that is visible from the

⁶³ Revised since module 1 in response to public feedback that 1 cubic yard was too restrictive. Height limit was added.

~~street of the dwelling~~, provided that the diameter does not exceed 18 inches and that approval of the ~~director of public works~~ community development director ~~is shall be~~ obtained prior to ~~such~~ installation. The community development director ~~of public works shall is authorized to~~ issue ~~such~~ a permit for a front location only upon a showing by the applicant that usable communication signals are not receivable from any location on the property other than the location selected by the applicant.

27-10.70-C. Height and Screening

- ~~1. Ground-mounted satellite dish antennas may not exceed 20 feet in height including any platform or structure upon which the antenna is mounted or affixed. Building-mounted satellite dish antennas may not exceed 18 feet in height. If usable satellite signals cannot be obtained from an antenna installed in compliance with these height limitations, the satellite dish antenna may be installed at a greater height, provided that the height is approved by the director public works. Such approval shall be granted only upon a showing by the applicant that installation at a height is necessary for the reception of usable communication signals. Under no circumstances shall said antennae exceed the height of the elevation of the ridge line of the principal structure.~~
- ~~2.1. Except in office, commercial, industrial, or multifamily residential districts,~~
5 Ground-mounted satellite dish antennae ~~in R districts~~ must be screened to reduce visual impact from surrounding properties at street level and from public streets.
- ~~3.2.~~ All satellite television antennae must meet all manufacturers' specifications, be located on noncombustible and corrosion-resistant material and be erected in a secure manner.
- ~~4.3.~~ All satellite television antennae must be adequately grounded for protection against a direct strike of lightning pursuant to the requirements of the county electrical code.

27-10.80 Solar Energy Systems

27-10.80-A. General⁶⁴

1. Accessory solar energy systems must comply with all applicable building ordinance and electrical code requirements.
2. Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight. Any such easements must be recorded with the county recorder of deeds.

⁶⁴ These proposed regulations are entirely new.

27-10.80-B. Building-Mounted Solar Energy Systems

1. Building-mounted solar energy systems may be mounted on principal and accessory structures.
2. All applicable setback regulations apply to building-mounted solar energy systems. Systems mounted on principal structures may encroach into interior side and rear setbacks in accordance with Sec. [27-30.60-D](#).
3. Only building-integrated and/or flush-mounted solar energy system may be installed on street-facing building elevations.
4. Solar energy systems may not extend more than 3 feet above the applicable maximum building height limit for the subject building type or more than 5 feet above the highest point of the roof line, whichever is less.

27-10.80-C. Ground-Mounted Solar Energy Systems

1. In residential zoning districts, ground-mounted solar energy systems may not be located in a required street setback or street yard area.
2. Ground-mounted solar energy systems may be located within required interior side and rear setbacks.
3. Ground-mounted solar energy systems are subject to applicable accessory structure height and lot coverage regulations.

27-10.90 Relatives' Residences

A second kitchen facility may be constructed and used within a detached house for the exclusive use of relatives of the real property owner, subject to all of the following regulations:

- 27-10.90-A.** The real property owner must live in the detached house.
- 27-10.90-B.** Relatives must be related by blood, marriage or law.
- 27-10.90-C.** The area of the second kitchen facility may not exceed the area of the main kitchen facility.
- 27-10.90-D.** Access to the relatives' living area must come from the interior of the residence, although secondary access to the exterior of the dwelling is not prohibited.
- 27-10.90-E.** Permits for the second kitchen facility may not be issued until the property owner has applied to and received from the community development director an administrative permit for a relatives' residence. The relatives' residence permit must be in recordable form and, upon execution, must be recorded in the office of the clerk of the superior court. The community development director must provide a copy of the permit to the board of tax assessors. The unit must be removed when it is vacated by the relatives for whom the unit was installed.

27-10.100 Retail Sales Kiosks, Vending Machines and Donation Drop Boxes⁶⁵

Retail sales kiosks, vending machines and donation drop boxes are allowed only if located entirely within an enclosed building or within the exterior perimeter footprint of an allowed building.

~~Noncommercial Kennels~~

~~All noncommercial kennels shall be located on a site of not less than two acres. All structures shall be located at least 200 feet from any property line. All facilities shall be constructed and activities conducted in accordance with rules and regulations promulgated by the city council for noncommercial kennels.~~

⁶⁵ These provisions are entirely new.

Article 11 Temporary Uses

27-11.10 Description and Purpose⁶⁶

- 27-11.10-A.** A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may or may not comply with the use or lot and building standards of the zoning district in which the temporary use is located.
- 27-11.10-B.** The temporary use regulations of this section are intended to permit such occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare.

27-11.20 Authority to Approve⁶⁷

- 27-11.20-A.** Except as otherwise expressly stated, temporary uses are subject to all city permit procedures and municipal code requirements.
- 27-11.20-B.** The community development director is authorized to approve temporary uses that comply with the provisions of this article and to impose conditions on the operation of temporary uses that will help to ensure that they do not create significant adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance.
- 27-11.20-C.** Temporary uses and special events on city streets or city-owned land are subject to the special event provisions of Chapter 26 of the municipal code.
- 27-11.20-D.** The community development director is also authorized to require that temporary uses that are deemed likely to generate significant impacts on the surrounding area be processed as special land use permits in accordance with [Article 19](#).

27-11.30 Authorized Temporary Uses

27-11.30-A. Garage Sales⁶⁸

1. Up to 2 garage sales per calendar year are permitted as temporary uses without a permit. Any additional garage sales require community development approval.
2. Garage sales in residential zoning districts are permitted only on lots occupied by a residential dwelling unit.

27-11.30-B. Temporary Buildings

1. The community development director is authorized to approve temporary buildings to be used in conjunction with construction work or pending completion of

⁶⁶ This section is entirely new.

⁶⁷ This section is entirely new.

⁶⁸ This section is entirely new.

a permanent building for a period not to exceed one year. This one-year time limit may be extended only if approved through the special land use permit procedure of Article 19.

2. Temporary buildings must be removed when construction has been completed and prior to issuance of a final certificate of occupancy.

27-11.30-C. Temporary Outdoor Seasonal Sales

The regulations of this subsection apply to temporary outdoor sales of plants, flowers, produce, seasonal greenery and similar items customarily displayed and sold outdoors on a seasonal basis. The community development director is authorized to approve temporary outdoor seasonal sales in NS, C-1, C-2, and M zoning districts and on the site of a place of worship, subject to the following requirements:

1. Any application for a temporary use permit for outdoor seasonal sales must be accompanied by written authorization of the subject property owner to use the property for temporary outdoor seasonal sales.
2. No permit for temporary outdoor seasonal sales may be approved for the same lot or any portion of the same lot for a cumulative total of more than 90 days in any calendar year.
3. ~~No temporary outdoor seasonal sales may be approved for a time period exceeding 45 consecutive days.~~⁶⁹
4. Temporary outdoor seasonal sales uses are permitted only on lots that have adjacent hard-surface parking with a curb cut.
5. No operator, employee or representative may solicit directly to motorists.

27-11.30-D. Temporary Outdoor Sales

The regulations of this subsection apply to temporary outdoor sales activities (other than temporary seasonal sales) where the point of sales occurs outside of a building (e.g., parking lot tent sale). The community development director is authorized to approve temporary outdoor sales of merchandise in NS, C-1, C-2 and M zoning districts, subject to the following requirements:

1. Any application for a temporary use permit for outdoor sales of merchandise must be accompanied by written authorization of the subject property owner to use the property for temporary outdoor sales of merchandise.
2. No temporary outdoor sales of merchandise may be conducted ~~on public property, within any public right-of-way and no display or sales area shall be located~~ within 50 feet of the public right-of-way.
3. Applicants for temporary outdoor sales permits must obtain a business license.

⁶⁹ We had discussed adding provisions for extensions, but in light of the annual cumulative 90-days limit, we have simply proposed eliminating the single event duration limit, which would allow a single event, thereby allowing one event to consume the entire year's 90-day allotment.

4. No temporary outdoor sales of merchandise may be approved for a time period exceeding 3 consecutive days.
5. No permit for temporary outdoor sales of merchandise may be approved for the same lot or any portion of the same lot for a total of more than 6 days in any calendar year.
6. Except as authorized by the permit for temporary outdoor sales of merchandise, all other sales of merchandise must be conducted within a permanent building that has a floor area of at least 300 square feet and that complies with the requirements of this zoning ordinance and all other applicable parts of the municipal code.
7. Temporary outdoor sales activities ~~may be approved only on developed lots~~ are prohibited on vacant lots.
8. No temporary buildings, ~~shacks or tents~~ are permitted in connection with a temporary outdoor sales use.
9. All activities associated with temporary outdoor sales are limited to daylight hours and all displays and equipment must be removed nightly.
10. No operator, employee or representative may solicit directly to motorists.

27-11.30-E. Temporary Portable Storage Containers⁷⁰

The community development director is authorized to approve the use of portable storage containers as a temporary use in any zoning district. The following regulations apply in residential districts.

1. Temporary portable storage containers are permitted for a period not to exceed a total of 60 days within any calendar year. However, in cases where a dwelling has been damaged by natural disaster or casualty, the community development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed 8.5 feet in height or more than 260 square feet in area.
3. Temporary portable storage containers may not be located in the public right-of-way or obstruct intersection visibility.
4. Temporary portable storage containers may not be located in side setbacks or side yards. Temporary portable storage containers may not be located in a street yard unless located on a driveway or other paved surface.
5. Rail cars, semi-trailers or similar equipment may not be used for temporary (or permanent) storage.
6. Signs on temporary portable storage containers must comply with all applicable city sign regulations.

⁷⁰ These provisions are entirely new.

Temporary Outdoor Activities

~~The community development director is authorized to approve temporary outdoor social, religious, entertainment or recreation activities of up to 14 days' duration if the director determines that adequate parking is provided on the subject site. No more than one such activity is permitted on a single lot during a single calendar year.~~

~~27-11.30 F. Temporary Events of Community Interest~~⁷¹

~~The community development director is authorized to approve a temporary use permit for art shows, fairs, carnivals, fund raisers and similar events of community interest in NS, C-1, C-2 and M zoning districts and on any lot occupied by a quasi-public or institutional use, subject to the following requirements:~~

- ~~1. the duration of any temporary event of community interest may not exceed 14 days; and~~
- ~~2. activity areas must be set back at least 100 feet from any lot in a residential district and at least 50 feet from public right of way.~~

27-11.40 Conditions of Approval

In approving any temporary use, the community development director is authorized to impose conditions that will help to ensure that the use and its associated activities do not create significant adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance. Such conditions may include the following:

- 27-11.40-A.** requirements for vehicle access and parking;
- 27-11.40-B.** restrictions on hours of operation;
- 27-11.40-C.** limitations on signs and outdoor lighting;
- 27-11.40-D.** requirements for financial guarantees covering the costs of cleanup and/or removal of structures or equipment; and
- 27-11.40-E.** other conditions necessary to carry out the general purposes of this zoning ordinance.

⁷¹ Deleted because temporary events are regulated under Chapter 26 of the municipal code.

PART IV: GENERALLY APPLICABLE REGULATIONS

Article 12	Parking and Circulation.....	12-1
27-12.10	General.....	12-1
27-12.20	Minimum Motor Vehicle Parking Ratios.....	12-2
27-12.30	Calculation of Required Parking	12-5
27-12.40	Allowed Motor Vehicle Parking Reductions	12-6
27-12.50	Bicycle Parking	12-8
27-12.60	Location of Off-Street Parking.....	12-10
27-12.70	Use of Off-Street Parking Areas.....	12-12
27-12.80	Parking Area Design	12-12
27-12.90	Pedestrian Circulation	12-13
27-12.100	Accessible Parking for People with Disabilities.....	12-14
27-12.110	Drive-through Facilities	12-15
27-12.120	Off-Street Loading	12-16
Article 13	Landscaping and Screening.....	13-1
27-13.10	General.....	13-1
27-13.20	General Landscaping of Yards and Open Areas	13-2
27-13.30	Parking Lot Interior Landscaping	13-2
27-13.40	Parking Lot Perimeter Landscaping	13-5
27-13.50	Transition Yards.....	13-6
27-13.60	Screening.....	13-8
27-13.70	Landscape Plans	13-12
27-13.80	Landscape Material and Design.....	13-12
27-13.90	Alternative Compliance	13-15
Article 14	Outdoor Lighting.....	14-1
27-14.10	Purpose	14-1
27-14.20	Conformance with Applicable Regulations.....	14-1
27-14.30	Prohibited Lighting	14-1
27-14.40	Exempt Lighting.....	14-1
27-14.50	Regulations.....	14-2
27-14.60	Variances	14-6
27-14.70	Plans	14-6
27-14.80	Certification.....	14-6
Article 15	Fences and Walls	15-1
27-15.10	Applicability.....	15-1
27-15.20	Maximum Height.....	15-1
27-15.30	Required Fences and Walls	15-1
27-15.40	Retaining Walls in Single-dwelling Residential Districts	15-1

PART IV: GENERALLY APPLICABLE REGULATIONS

27-15.50	Wing Walls in Single-dwelling Residential Districts	15-2
Article 16	Miscellaneous Provisions.....	16-1
27-16.10	Outdoor Storage.....	16-1
27-16.20	Street Frontage Required	16-1
27-16.30	State Routes	16-1
27-16.40	Intersection Visibility.....	16-1

Article 12 Parking and Circulation

27-12.10 General

27-12.10-A. Purpose⁷²

1. The regulations of this article are intended to help ensure provision of off-street motor vehicle parking facilities, bicycle parking areas and other motorized and non-motorized transportation circulation facilities in rough proportion to the generalized demands of different land uses. By requiring such facilities, it is the intent of this article to help avoid the negative impacts associated with spillover parking into adjacent areas, while at the same time avoiding the negative environmental and visual impacts that can result from very large parking lots and other vehicular use areas.
2. The provisions of this article are also intended to help protect the public health, safety and general welfare by:
 - a. promoting multi-modal transportation options and enhanced pedestrian and cyclist safety; and
 - b. providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the city.

27-12.10-B. Applicability⁷³

1. **General**
Unless otherwise expressly stated, the regulations of this article apply to all districts and uses.
2. **New Uses and Development**
Unless otherwise expressly stated, the parking regulations of this article apply to all new buildings constructed and all new uses established in all zoning districts.
3. **Change of Use**
When an existing or previously existing use fails to provide the number of off-street parking spaces required under this zoning ordinance and a new use is proposed the existing parking (deficit) may be continued. When the number of parking spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the property, additional spaces are required only to make up the difference between the number of spaces required for the previous use and the number of spaces required for the new use, based on the regulations of this zoning ordinance.

⁷² Purpose statement is entirely new. No equivalent provisions in current ordinance.

⁷³ Applicability provisions are entirely new. No equivalent provisions in current ordinance.

4. Enlargements and Expansions

- a. Unless otherwise expressly stated, the parking regulations of this article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking requirements.
- b. In the case of enlargements or expansions that trigger requirements for additional parking, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. In other words, there is no requirement to address lawfully existing parking space deficits.

27-12.20 Minimum Motor Vehicle Parking Ratios⁷⁴

Except as otherwise expressly stated, off-street motor vehicle parking spaces must be provided in accordance with the following table:

USES	Minimum Motor Vehicle Parking
RESIDENTIAL	
Household Living	
Detached house	<u>2</u> spaces per dwelling unit ⁷⁵
Attached house	<u>2</u> spaces per dwelling unit ⁷⁶
Multi-unit building	1 space per dwelling unit + 1 additional space per bedroom for 2+ bedroom units + 1 visitor space per 8 units ⁷⁷
Multi-unit building (age-restricted 62 years+)	1 space per dwelling unit + 1 visitor space per 8 units
Group Living	
Convent and monastery	5 spaces per 1,000 sq. ft.
Fraternity house or sorority house	1 space per bed
Nursing home	1 space per 2 beds
Personal care home, registered (1–3 persons)	4 spaces
Personal care home, family (4–6 persons)	4 spaces
Personal care home, group (7–15 persons)	4 spaces
Personal care home, congregate (16 or more)	1 space per 4 clients
Residence hall	<u>0.25 spaces per sleeping room</u>
Rooming house	1 space per bedroom
Shelter, homeless	<u>1 space per 10-person capacity</u>
Supportive living	1 space per 2 living units
Transitional housing facility	<u>1 space per 4 beds</u>

⁷⁴ Minimum ratios are from existing ordinance except as indicated.

⁷⁵ Current minimum is 4 spaces

⁷⁶ Current minimums range from 2 to 4 spaces per dwelling based on size of unit.

⁷⁷ This represents a substantive change; current ordinance requires 1 to 2 spaces per unit depending on zoning district.

USES	Minimum Motor Vehicle Parking
QUASI-PUBLIC & INSTITUTIONAL	
Ambulance Service	1 space per service vehicle plus 1 space per 2 employees
Club or Lodge, Private	10 spaces per 1,000 sq. ft.
Cultural Exhibit	1 space per 3 fixed seats; 40 spaces per 1,000 sq. ft. in largest assembly room if no fixed seats
Day Care	
Day care facility, adult (6 or fewer persons)	4 spaces
Day care center, adult (7 or more)	5 spaces per 1,000 sq. ft.
Day care facility, child (6 or fewer persons)	4 spaces
Day care center, child (7 or more)	5 spaces per 1,000 sq. ft.
Educational Services	
College or university	10 spaces per classroom
Kindergarten	5 spaces per 1,000 sq. ft. ⁷⁸
Research and training facility, college or university affiliated	10 spaces per classroom
School, private elementary or middle	2 spaces per classroom
School, private senior high	5 spaces per classroom
School, specialized non-degree	10 spaces per classroom
School, vocational or trade	10 spaces per classroom
Hospital	1 space per 2 beds
Place of Worship	1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats ⁷⁹
Utility Facility, Essential	As determined per Sec. 27-12.30-F
COMMERCIAL	
Adult Use	13.33 spaces per 1,000 sq. ft.
Animal Services	3.3 spaces per 1,000 sq. ft.
Communication Services (except as noted below)	3.3 spaces per 1,000 sq. ft.
Telecommunication tower or antenna	None
Construction and Building Sales and Services	4 spaces per 1,000 of customer-accessible sales area + 3.3 spaces per 1,000 sq. ft. of office floor area + 0.5 spaces per 1,000 of additional indoor floor area
Eating and Drinking Establishments	
Restaurant, accessory to allowed office or lodging use	13.33-6.67 spaces per 1,000 sq. ft.; minimum 10 spaces
Restaurant, drive-in or drive-through	10 spaces per 1,000 sq. ft.; minimum 10-5 spaces
Restaurant, other than drive-through or drive-in	13.33-6.67 spaces per 1,000 sq. ft.; minimum 10 spaces ⁸⁰
Food truck	None
Other eating or drinking establishment	6.67 spaces per 1,000 sq. ft.
Entertainment and Spectator Sports (except as stated below)	
Special events facility	1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats
Financial Services	
Banks, credit unions, brokerage and investment services	3.3 spaces per 1,000 sq. ft.
Convenient cash business	4 spaces per 1,000 sq. ft.
Pawn shop	4 spaces per 1,000 sq. ft.

⁷⁸ Current ordinance requires minimum 5 spaces per 1,000 sq. ft. in PC district.

⁷⁹ PC district requires 1 space per 5 fixed seats; 20 spaces per 1,000 sq. ft. in largest assembly room if no fixed seats

⁸⁰ 10-space minimum does not currently apply in C-1

USES	Minimum Motor Vehicle Parking
Food and Beverage Retail Sales	40 4 spaces per 1,000 sq. ft.
Funeral and Interment Services	0.5 spaces per 1,000 sq. ft.
Cemetery, columbarium, or mausoleum	<u>None (parking allowed on internal roads/drives)</u>
Crematory	0.5 spaces per 1,000 sq. ft.
Funeral home or mortuary	1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats
Lodging	1.25 spaces per guest room
Medical Service	
Home health care service	3.3 spaces per 1,000 sq. ft.
Hospice	1 space per 2 beds
Kidney dialysis center	4 spaces per 1,000 sq. ft.
Medical and dental laboratory	3.3 spaces per 1,000 sq. ft.
Medical office/ clinic	4 spaces per 1,000 sq. ft.
Office or Consumer Service	4- 3.3 spaces per 1,000 sq. ft.
Parking, Non-accessory	N/A
Personal Improvement Service	5.5 4 spaces per 1,000 sq. ft.
Repair or Laundry Service, Consumer	5.5 4 spaces per 1,000 sq. ft.
Research and Testing Services	3.3 per 1,000 sq. ft.
Retail Sales	4 spaces per 1,000 sq. ft. + 1 space per 1,000 of outdoor display/sales areas ⁸¹
Sports and Recreation, Participant	
Golf course and clubhouse, private	20 spaces per 9 holes 2 spaces per hole
Health club	5 4 spaces per 1,000 sq. ft.
Private park	<u>As determined per Sec. 27-12.30-F</u>
Recreation center or swimming pool, neighborhood	1 space per 5 members; minimum 10 spaces in R districts; minimum 20 spaces in nonresidential districts
Recreation grounds and facilities	<u>As determined per Sec. 27-12.30-F</u>
Tennis center, club and facilities	1 space per 5 members; minimum 10 spaces in R districts; minimum 20 spaces in nonresidential districts
Other participant sports and recreation (Indoor)	5 spaces per 1,000 sq. ft.
Other participant sports and recreation (Outdoor)	<u>As determined per Sec. 27-12.30-F</u>
Vehicle and Equipment, Sales and Service	
Car wash	<u>Vehicle stacking spaces per Sec. 27-12.110</u>
Gasoline sales	3 spaces per service bay/ stall ; minimum 10 spaces
Vehicle repair, minor	6-67 3 spaces per 1,000 sq. ft. service bay/stall
Vehicle repair, major	6-67 3 spaces per 1,000 sq. ft. service bay/stall
Vehicle sales and rental	1 space per employee + 2 spaces per service bay/stall
Vehicle storage and towing	4 spaces + 1 per employee
INDUSTRIAL	
Manufacturing and Production, Light	0.5 spaces per 1,000 sq. ft.
Wholesaling, Warehousing and Freight Movement	0.5 spaces per 1,000 sq. ft.
AGRICULTURE AND TRANSPORTATION	
Agriculture	
Agricultural produce stand	<u>None</u>
Community garden	<u>None</u>
Crops, production of	<u>None</u>

⁸¹ Current retail parking requirement is 5.5 spaces per 1,000 square feet except in OCR, where it's 4 per 1,000 gsf.

USES	Minimum Motor Vehicle Parking
Transportation	
Heliport	None
Stations and terminals for bus and rail passenger service	As determined per Sec. 27-12.30-F
Taxi stand and taxi dispatching office	As determined per Sec. 27-12.30-F

27-12.30 Calculation of Required Parking⁸²

The following rules apply when calculating the required number of off-street parking spaces:

27-12.30-A. Multiple Uses

Unless otherwise expressly stated, lots containing more than one use must provide parking in an amount equal to the total of the requirements for all uses on the lot.

27-12.30-B. Fractions

When measurements of the number of required spaces result in a fractional number, any fraction of less than ½ (0.5) is rounded down to the next lower whole number, and any fraction of ½ (0.5) or more is rounded up to the next higher whole number.

27-12.30-C. Area Measurements

Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area.

27-12.30-D. Occupancy- or Capacity-based Standards

For the purpose of computing parking requirements based on employees, students, members, residents or occupants, calculations must be based on the largest number of persons working on any single shift, the maximum enrollment or membership or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

27-12.30-E. Unlisted Uses

Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the community development director is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking requirement for the proposed use in accordance with Sec. [27-12.30-F](#).

27-12.30-F. Establishment of Other Parking Ratios

The community development director is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where authority to establish a requirement is expressly granted. Such ratios may be established on the basis of a similar use/parking determination (as described in Sec. [27-12.30-E](#)), on parking data provided by the applicant or information otherwise available to the community development director. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations (e.g., Institute of Transportation Engineers (ITE) or American Planning Association [APA]). Comparability will be determined by

⁸² These calculation rules are entirely new. No equivalent provisions in current ordinance.

density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

27-12.40 Allowed Motor Vehicle Parking Reductions

27-12.40-A. Transit-Served Locations

The community development director may authorize up to a reduction in the number of off-street parking spaces required for nonresidential uses located within ~~1,000~~ 1,500 feet of the pedestrian entrance of a commuter rail station or bus rapid transit stop in accordance with the administrative permit provisions of Article 23. The extent of reduction may not exceed 3 spaces or 25%, whichever is greater.

27-12.40-B. Motorcycle Parking⁸³

In parking lots containing over 20 motor vehicle parking spaces, motorcycle or scooter parking may be substituted for up to 5 automobile parking spaces or 5% of required motor vehicle parking, whichever is less. For every 4 motorcycle or scooter parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle and scooter space must have a concrete surface and minimum dimensions of 4 feet by 8 feet. This provision applies to existing and proposed parking lots.

27-12.40-C. Bicycle Parking

Uses that provide bicycle parking and storage spaces are eligible for a reduction of required motor vehicle parking, in accordance with Sec. 27-12.50.

27-12.40-D. Car-Share Service⁸⁴

1. For any development, one parking space or up to 5% of the total number of required spaces, whichever is greater, may be reserved for use by car-share vehicles. The number of required motor vehicle parking spaces is reduced by one space for every parking space that is leased by a car-share program for use by a car-share vehicle. Parking for car-share vehicles may be provided in any non-required parking space.
2. For any residential or mixed-use development that (a) is required to provide 50 or more parking spaces to serve residential dwelling unit and (b) provides one or more spaces for car-share vehicles, the number of required parking spaces may be reduced by 4 spaces for each reserved car-share vehicle parking space. No reduction of required visitor parking spaces is allowed.

27-12.40-E. Shared Parking

1. Sharing parking among different users can result in overall reductions in the amount of motor vehicle parking required. Shared parking is encouraged as a

⁸³ This is entirely new

⁸⁴ This is entirely new.

means of conserving scarce land resources, reducing stormwater runoff, reducing the heat island effect caused by large paved areas and improving community appearance.

2. Shared parking facilities are allowed for mixed-use projects and for multiple uses with different times of peak parking demand, subject to approval by the community development director. Applicants proposing to use shared parking as a means of reducing overall motor vehicle parking requirements must submit:
 - a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
 - b. The location and number of parking spaces that are being shared;
 - c. A shared parking analysis;
 - d. A legal instrument such as an easement or deed restriction guaranteeing access to the parking for the shared parking users.
3. The required shared parking analysis must be based on the latest edition of the Urban land Institute's (ULI) shared parking model or be prepared by registered engineer in the State of Georgia with expertise in parking and transportation. The shared parking analysis must demonstrate that the peak parking demands of the subject uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses.
4. Shared parking may be located off site, provided that at least 75% of the required number of parking spaces for the subject use must be located on-site. Off-site parking is subject to the regulations of Sec. [27-12.60-C](#).
5. Required residential parking and accessible parking spaces (for persons with disabilities) may not be shared and must be located on site.

27-12.40-F. Alternative Compliance⁸⁵

The motor vehicle parking ratios of this article are not intended to prevent development and redevelopment or to make development and redevelopment economically impractical. In order to allow for flexibility in addressing the actual expected parking demand of specific uses, alternative compliance parking ratios may be approved through the special exception process (See [Article 22](#)) only if:

1. the applicant submits a parking study, prepared and sealed by a registered professional engineer in the State of Georgia with expertise in parking and transportation demonstrating that the motor vehicle parking ratios of Sec. [27-12.20](#) do not accurately reflect the actual parking demand that can reasonably be anticipated for the proposed use; and
2. The zoning board of appeals determines that the proposed reduced parking ratios are not likely to cause adverse impacts on traffic circulation and safety or on the surrounding area.

⁸⁵ Under the existing zoning ordinance, parking ratios can be reduced if approved as a special exception (§27-1572).

27-12.50 Bicycle Parking⁸⁶

27-12.50-A. General

This section allows reduction of motor vehicle parking requirements in exchange for providing bicycle parking facilities.

27-12.50-B. Replacement of Motor Vehicle Parking Spaces with Bicycle Parking Spaces

~~The minimum motor vehicle parking requirements for nonresidential uses may be reduced by 10% or one space, whichever is greater, if at least 4 bicycle parking spaces are provided or bicycle parking equal to at least 25% of the number of motor vehicle parking spaces required in Sec. 27-12.20 is provided, whichever results in more bicycle parking spaces. This incentive may be used to reduce motor vehicle parking by no more than 25 spaces on any lot. To qualify for this incentive, bicycle parking must comply with the location and design standards of this section. Any nonresidential use may convert or substitute up to 25 required motor vehicle parking spaces in exchange for providing bicycle parking spaces at the following ratios:~~

1. A reduction of one motor vehicle parking space is permitted for each 6 short-term bicycle parking spaces provided.
- ~~1.2.~~ A reduction of one motor vehicle parking space is permitted for each 2 long-term bicycle parking spaces provided.

27-12.50-C. Location and Design

1. Short-Term Bicycle Parking Spaces

a. Location

Short-term bicycle parking spaces provided to receive parking credit in accordance with Sec. 27-12.50-B must be located in highly visible, illuminated areas that do not interfere with pedestrian movements. Short-term bicycle parking spaces must be located within 100 feet of a customer entrance.

b. Design

Short-term bicycle parking spaces provided to receive parking credit in accordance with Sec. 27-12.50-B must:

- (1) consist of bike racks or lockers that are anchored so that they cannot be easily removed;
- (2) be of solid construction, resistant to rust, corrosion, hammers, and saws;
- (3) allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (4) be designed so as not to cause damage to the bicycle;

⁸⁶ These bicycle parking provisions are entirely new.

- (5) facilitate easy locking without interference from or to adjacent bicycles; and
- (6) have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

2. Long-Term Bicycle Parking and Storage Spaces

a. Location

Long-term bicycle parking spaces provided to receive parking credit in accordance with Sec. [27-12.50-B](#) must be provided in at least one of the following locations:

- (1) in weather-protected stationary racks or lockers that comply with the short-term bicycle parking location requirements of Sec. [27-12.50-C.1.a](#)
- (2) in a locked room;
- (3) in a weather-protected locked area that is enclosed by a fence or wall with a minimum height of 7 feet;
- (4) in a private garage or private storage space serving an individual dwelling unit within a multi-dwelling (residential) building;
- (5) in a weather-protected area within clear view of an attendant or security personnel;
- (6) in a weather-protected area continuously monitored by security cameras; or
- (7) in a weather-protected area that is visible from employee work areas.

b. Design

Long-term bicycle parking spaces provided to receive parking credit in accordance with Sec. [27-12.50-B](#) must:

- (1) be covered to provide protection from weather and secured to prevent access by unauthorized persons;
- (2) consist of bike racks or lockers anchored so that they cannot be easily removed;
- (3) be of solid construction, resistant to rust, corrosion, hammers, and saws;
- (4) allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (5) be designed so as not to cause damage to the bicycle;
- (6) facilitate easy locking without interference from or to adjacent bicycles; and
- (7) have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet. Bicycle lockers are exempt from overhead clearance requirements.

27-12.60 Location of Off-Street Parking

27-12.60-A. General

Except as otherwise expressly stated, required off-street parking spaces must be located on the same lot as the building or use they are required to serve.

27-12.60-B. Residential Districts

The following standards apply in residential districts:

1. In R districts, parking is prohibited in street yards except on approved driveways.
2. No more than 35% of the street yard area in an R district may be paved. Circular driveways are allowed only on lots with adequate width to comply with the Institute of Traffic Engineers' geometric design standards. They are subject to the 35% paved area limitation.
3. In RM districts, parking is prohibited in required street setbacks.
4. Only licensed, operable motorcycles and passenger vehicles not operated as a common or contract carrier for hire may be parked outside of an enclosed building in residential zoning districts. This provision is intended to expressly prohibit the parking of commercial motor vehicles (as defined in O.C.G.A §40-1-1) outside of an enclosed building, except for the immediate loading or unloading of goods or people. It also expressly prohibits the outdoor parking and outdoor storage of construction equipment such as tractors, skid steers, backhoes, forklifts, cement mixers and similar equipment. This prohibition does not apply to construction staging areas.⁸⁷
5. The parking and outdoor storage of trailers, recreational vehicles, travel trailers, campers, pickup coaches, motorized homes, boat trailers, boats and similar vehicles and equipment is prohibited in street yards and within ~~20-10~~ feet of any ~~the rear~~ lot line

27-12.60-C. Off-Site Parking⁸⁸

1. General

Up to 25% of the number of off-street parking spaces required for nonresidential uses may be provided off-site, in accordance with the provisions of this section. Off-site parking areas must comply with all applicable parking area design and accessibility standards. Required accessible parking spaces and parking required for residential uses may not be located off site.

2. Location

Off-site parking areas must be located within a 1,500-foot radius of the use served by such parking, measured between the entrance of the use to be served and the outer perimeter of the furthest parking space within the off-site parking

⁸⁷ This provision is new. Current ordinance simply prohibits "business vehicles."

⁸⁸ These off-site parking provisions are entirely new.

lot. Off-site parking lots are allowed [as of-right](#) only in zoning districts that permit [either](#) the principal use to be served by the off-site parking spaces [or non-accessory parking uses](#). [Off-site parking in other zoning districts requires review and approval of a special use special land use permit in accordance with the procedures of Article 19.](#)

Figure 12-1: Off-site Parking, Maximum Distance Measurement



3. Control of Off-Site Parking Area

The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article.

27-12.70 Use of Off-Street Parking Areas⁸⁹

- 27-12.70-A.** Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition.
- 27-12.70-B.** Required off-street parking spaces may not be used for the display of goods for sale or lease or for storage of building materials.
- 27-12.70-C.** Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces that are required by this zoning ordinance must be maintained for the life of the principal use.
- 27-12.70-D.** No motor vehicle repair work of any kind is permitted in a required parking space except within a zoning district that otherwise permits motor vehicle repair.

27-12.80 Parking Area Design

27-12.80-A. Tandem and Valet Parking Arrangements⁹⁰

Parking areas must be designed and constructed to allow unobstructed movement into and out of required parking spaces without interfering with fixed objects or vehicles except in the case of allowed tandem and valet parking, as follows.

1. Tandem Parking

Tandem parking spaces may be used to satisfy residential parking requirements if the tandem spaces are assigned to the same dwelling unit.

2. Valet Parking

Valet parking may be used to satisfy minimum off-street parking requirements for nonresidential uses if an attendant is present during all hours of operation. Valet parking arrangements may involve the stacked parking of vehicles (i.e., requiring one or more vehicles to be moved to obtain access to other parked vehicles). Valet parking is not subject to the maximum 1,500-foot off-site parking limit of Sec. [27-12.60-C.2.](#)

27-12.80-B. Stall Sizes and Parking Lot Geometrics

1. Stall Size

a. Standard Spaces

Required parking spaces must have ~~a minimum area of 153 square feet and~~ minimum dimensions of 8.5 feet (width) by 18 feet (depth) except as allowed by Sec. [27-12.80-B.1.b](#) (compact spaces).

b. Compact Spaces

In parking lots containing 20 or more required parking spaces, up to 40% of the required spaces may be compact car spaces. Compact spaces must have

⁸⁹ Paragraphs A through C are new.

⁹⁰ New

~~a minimum area of 120 square feet and~~ minimum dimensions of 8 feet (width) by 15 feet (depth).

27-12.80-C. Geometric Design

Parking lots must comply with the geometric design standards of the Institute of Traffic Engineers (ITE).

27-12.80-D. Landscaping

See the parking lot landscaping regulations of Sec. [27-13.30](#) and Sec. [27-13.40](#).

27-12.90 Pedestrian Circulation⁹¹

An on-site circulation system for pedestrian and non-motorized travel must be provided in accordance with the following requirements:

27-12.90-A. Connection to the Street

The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users.

27-12.90-B. Connection to Abutting Properties

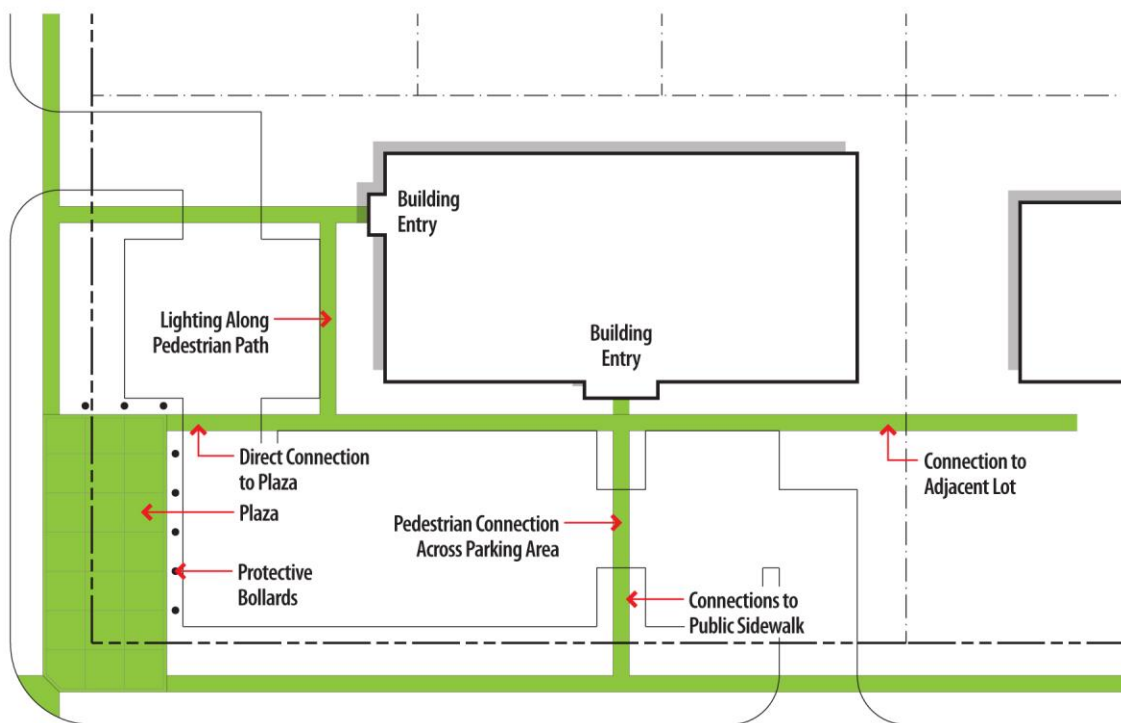
The on-site pedestrian circulation system must provide at least one connection to existing paths and sidewalks on abutting properties or to the likely location of future paths or sidewalks on those properties. When the community development director determines that no paths or sidewalks exist on a neighboring property or it is not possible to determine the likely location of future path or sidewalk connections or extending a connection would create a safety hazard on either property, no such connection is required.

27-12.90-C. Internal Connections

The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians and non-motorized travel, such as parking areas, bicycle parking, recreational areas, common outdoor areas, plazas and similar amenity features.

⁹¹ These provisions are entirely new.

Figure 12-2: Pedestrian Connections



27-12.90-D. Design

Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:

1. The on-site pedestrian circulation system must be paved and be at least 5 feet in width.
2. When the on-site pedestrian circulation system crosses driveways, parking areas or loading areas, it must be clearly differentiated through the use of elevation changes, a different paving material or other equally effective methods. Striping does not meet this requirement.
3. When the on-site pedestrian circulation system is parallel and adjacent to a motor vehicle travel lane, it must be a raised path at least 6 inches above the vehicle travel lane surface or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or another physical barrier. If a raised path is used, the ends of the raised portions must be equipped with accessible curb ramps.
4. The on-site pedestrian circulation system must be illuminated to ensure that it can be used safely at night by employees, residents, and customers. Lighting must be at height appropriate to a pedestrian pathway system.

27-12.100 Accessible Parking for People with Disabilities

Accessible parking facilities must be provided in accordance with Georgia law.

27-12.110 Drive-through Facilities⁹²**27-12.110-A. Purpose**

These regulations of this section are intended to help ensure that

1. there is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
2. waiting vehicles do not impede traffic on abutting streets; and
3. impacts on surrounding uses are minimized.

27-12.110-B. Applicability

1. The regulations of this section apply to all uses that include all drive-through facilities and to all portions of a development that comprise the drive-through facility. They do not apply to accessory facilities where vehicles do not routinely queue up while waiting for service.
2. The regulations apply to new developments, the addition of drive-through facilities to existing developments and the relocation of existing drive-through facilities.

27-12.110-C. Stacking Spaces Required

Stacking lanes must be provided in accordance with the following minimum requirements:

Use	Minimum Number of Stacking Spaces Required
Bank/financial institution	4 spaces per teller window or automatic teller machine
Car wash	
Self-service	3 spaces per approach lane, plus 2 drying spaces per bay
Full-service	6 spaces per approach lane, plus 2 drying spaces per bay
Gasoline pump	2 spaces per pump per side
Restaurant	
Single drive-through lane	8 total spaces, with at least 4 spaces at or before order station
Multiple drive-through lanes	6 total spaces per lane with at least 4 spaces at or before order station
Other	4 spaces per bay, window, lane, ordering station or machine

27-12.110-D. Stacking Lane Dimensions, Design and Layout

1. Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking spaces must be 9 feet wide by 20 feet long.
2. All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, curbing and/or signs.

⁹² These are entirely new.

27-12.110-E. Setbacks

Stacking lanes must be set back at least 50 feet from any abutting residential zoning districts and at least 25 feet from all other lot lines.

27-12.110-F. Noise

Drive-through facilities Speakers associated with drive-through facilities may not be audible from abutting R-zoned lots or abutting lots occupied by residential uses. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that the facility will not have adverse noise-related impacts on nearby residential uses.

27-12.110-G. Site Plans

Site plans must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

27-12.120 Off-Street Loading

27-12.120-A. Minimum Ratios

Off-street loading spaces must be provided in accordance with the following schedule:⁹³

Use Type	Minimum Loading Spaces Required
Public/Civic, Commercial and Industrial Uses	
Under 20,000 square feet	None
20,000–49,999 square feet	1
50,000+	2
Multi-unit or Mixed-use Residential (4+ stories)	
Under 50 units	None
50+ units	1

27-12.120-B. Design and location

1. Off-street loading spaces must be at least 12 feet in width and 35 feet in length unless off-street loading will involve the use of semi-tractor trailer combinations or other vehicles in excess of 35 feet in length, in which case the minimum size of a loading space is 12 feet by 55 feet. All loading spaces must have a minimum vertical clearance of 14 feet.
2. Each loading space must have sufficient maneuvering space on site so as to prevent interference with pedestrian or vehicular circulation on the subject site and on public streets and sidewalks.
3. Plans for location, design and layout of all loading spaces must be indicated on required site plans.
4. All off-street loading areas must be paved.

⁹³ These minimum loading ratios have been simplified and reduced.

Article 13 Landscaping and Screening

27-13.10 General

27-13.10-A. Purpose⁹⁴

The landscaping and screening regulations of this article establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this ordinance and specifically to:

1. Enhance quality of life for residents and visitors;
2. Protect property values;
3. Enhance the quality and appearance new development and redevelopment projects;
4. Mitigate possible adverse impacts of higher intensity land uses abutting lower intensity land uses;
5. Promote the preservation, expansion, protection and proper maintenance of existing trees and landscaping
6. Help ensure wise use of water resources;
7. Improve air quality;
8. Protect water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
9. Moderate heat by providing shade;
10. Reduce the impacts of noise and glare; and
11. Promote sustainable landscape practices including the use of non-invasive native and regionally adaptable plants.

27-13.10-B. Applicability⁹⁵

The landscaping and screening regulations of this article apply as set forth in the individual sections of these regulations.

⁹⁴ This is new.

⁹⁵ The current ordinances include a very general applicability statement encompassing basically any activity that requires the issuance of a development permit or a substantial building permit, which may present challenges for redevelopment activities.

27-13.10-C. General Exemption

Unless otherwise expressly stated, the landscaping and screening regulations of this article do not apply to the construction or expansion of individual detached houses.

27-13.20 General Landscaping of Yards and Open Areas⁹⁶

On all lots, required setback areas and areas that are not allowed to be covered (in accordance with lot coverage requirements) must be landscaped.

27-13.30 Parking Lot Interior Landscaping⁹⁷

27-13.30-A. Applicability

The parking lot interior landscaping regulations of this section apply to all of the following:

1. The construction or installation of any new surface parking lot containing 8 or more parking spaces; and
2. The expansion of any existing surface parking lot if the expansion would result in 8 or more new parking spaces, in which case the requirements of this section apply only to the expanded area.⁹⁸

27-13.30-B. Exemptions

Installation of parking lot interior landscaping is not required beneath canopies or other structures that block sunlight or rainfall.

27-13.30-C. Options

Landscaping must be provided in the interior of parking lots in the form of landscape islands or a combination of landscape islands and landscape medians, at the option of the property owner. The two options for satisfying parking lot interior landscaping requirements are as follows:

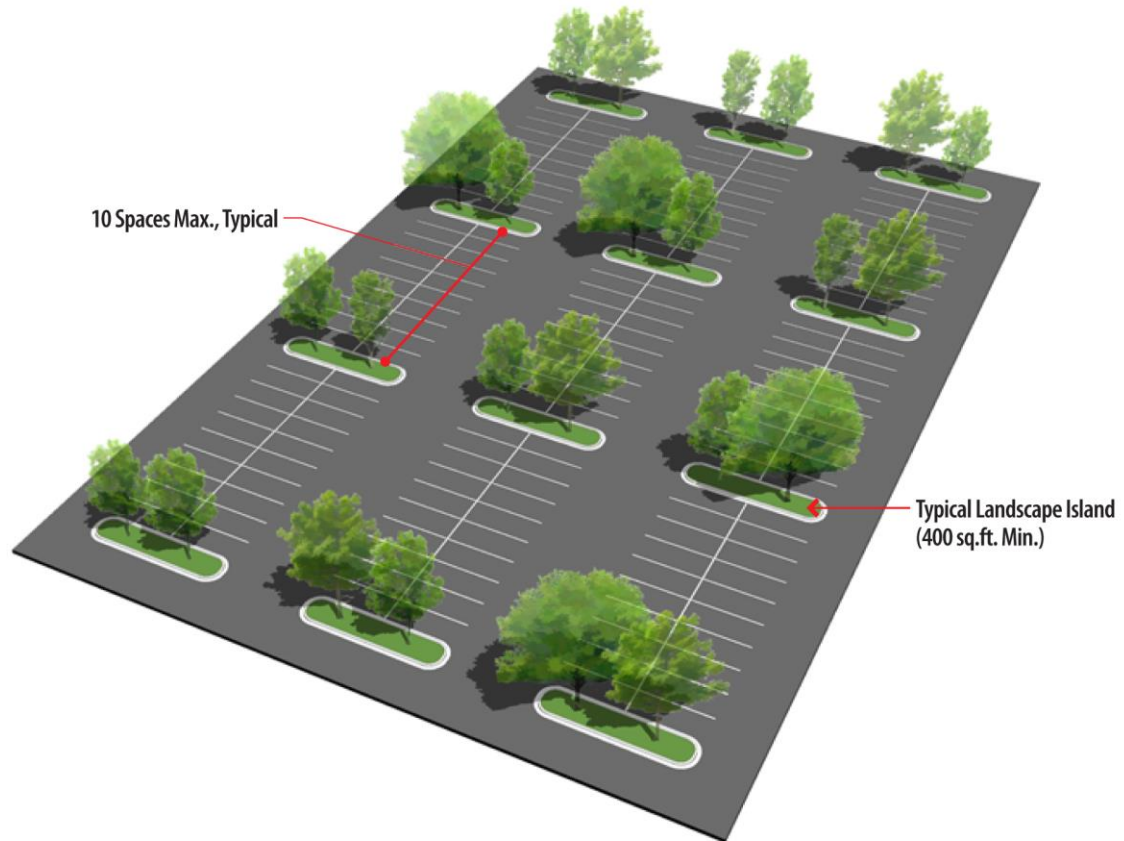
1. Landscape Islands (Option 1)

Under option 1, landscape terminal islands (end caps) must be provided at the end of each row of parking spaces and interior landscape islands must be provided within each row of parking spaces so that the distance between islands is no greater than 10 parking spaces. Under option 1, all landscape islands must have a minimum pervious area of 400 square feet, except when only a single row of parking spaces is provided, the minimum pervious area requirement is 200 square feet.

⁹⁶ This is a revision of the provision currently found in Sec. 27-1333, which states “Open space areas required to be established by this chapter shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials. These areas may not be used for vehicular access, parking or similar uses except as otherwise permitted in this chapter.” This generalized requirement is a partial replacement for the landscape strip requirements, which are proposed for deletion.

⁹⁷ Currently, there are very different parking lot landscaping requirements in Chapter 16 and Chapter 27. These follow the substantive requirements of Chapter 16, which seem far easier to interpret, administer and enforce.

⁹⁸ Number 2 is new; intended to provide greater flexibility for redevelopment activities.

Figure 13-1: Landscape Islands (Option 1)**2. Landscape Islands and Medians (Option 2)**

Under option 2, landscape terminal islands (end caps) must be provided at the end of each row of parking spaces and interior landscape islands must be provided within each row of parking spaces so that the distance between islands is no greater than 20 parking spaces. A landscape divider median with a minimum width of 5 feet must run continuously between landscape islands and include at least one canopy tree per 30 linear feet of median length. Under option 2, all landscape islands must have a minimum pervious area of 300 square feet-except when only a single row of parking spaces is provided, the minimum pervious area requirement is 150 square feet.

Figure 13-2: Landscape Islands (Option 2)



27-13.30-D. Plant Material

1. Landscape islands abutting a single row of parking spaces must include at least 1 canopy tree.
2. Landscape islands abutting a double row of parking spaces must include at least 2 canopy trees.
3. Shrubs must be provided in landscape islands and divider medians at a rate of 4 shrubs per required canopy tree.⁹⁹
4. Ground cover must be used in areas not covered by trees and shrubs. Turf grass may not be used in landscape islands or divider medians.
5. Landscaping within parking lots may not exceed 3 feet in height, with the exception of trees.

27-13.30-E. Landscape Materials and Design

Parking lot interior landscaping is subject to the regulations of Sec. [27-13.80](#).

⁹⁹ The 4 shrub requirement is a change; current ordinance requires that trees and shrubs cover at least 60% of each landscape island. This change is intended as a clarification/simplification, not an increase required shrubs.

27-13.40 Parking Lot Perimeter Landscaping¹⁰⁰**27-13.40-A. Applicability**

The parking lot perimeter landscaping regulations of this section apply to all of the following:

1. The construction or installation of any new surface parking lot or vehicular use area that is adjacent to street right-of-way; and
2. The expansion of any existing surface parking lot or vehicular use area that is adjacent to street right-of-way, in which case the requirements of this section apply only to the expanded area.

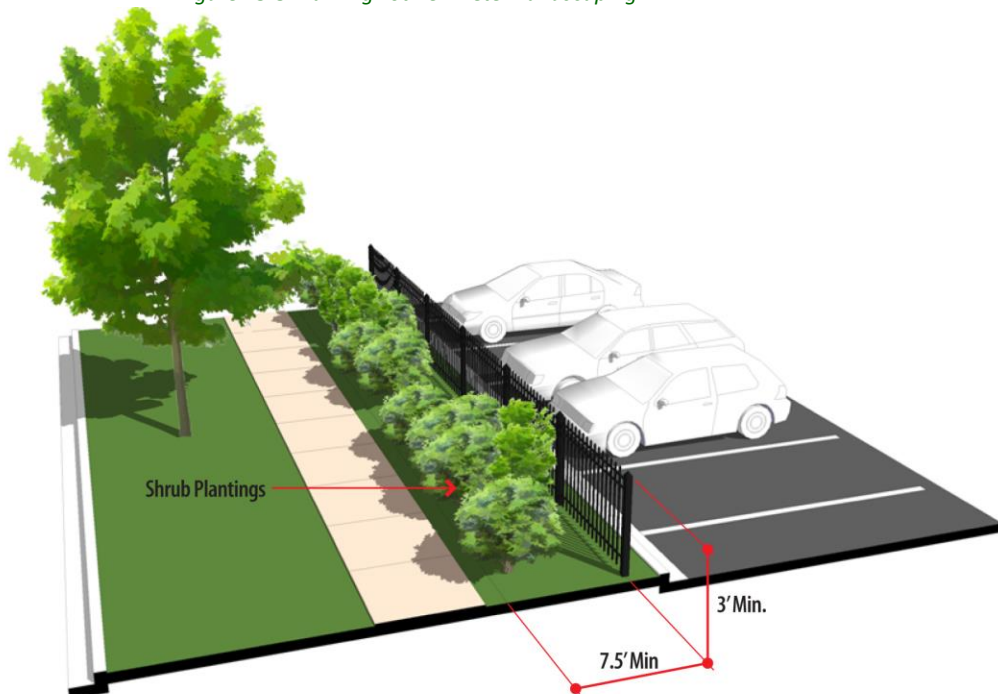
27-13.40-B. Exemptions

Installation of parking lot perimeter landscaping is not required when the parking lot or vehicular use area is not visible from adjacent street right-of-way, as determined by the city arborist.

27-13.40-C. Requirements

Parking lot perimeter landscaping must be provided in the form of a landscape strip with a minimum depth of 7.5 feet that includes a hedge, dense shrub planting, masonry wall or combination of such features that results in a continuous visual screen to a height of at least 3 feet above the grade of the parking lot (or vehicular use area) along the length its frontage.

Figure 13-3: Parking Lot Perimeter Landscaping



¹⁰⁰ The “landscape strip” requirements of Chapter 16 (16-185 through 16-188) are proposed for elimination. These parking lot perimeter landscaping requirements are a partial proposed replacement.

27-13.40-D. Plant Material

Shrubs used to satisfy parking lot perimeter landscaping requirements must be provided at a rate of 30 shrubs per 100 feet of parking lot (or vehicular use area) frontage.

27-13.40-E. Landscape Materials and Design

Parking lot perimeter landscaping is subject to the regulations of Sec. [27-13.80](#).

27-13.50 Transition Yards¹⁰¹

27-13.50-A. Applicability

The transition yard landscaping regulations of this section apply along interior property lines in those instances expressly identified in this zoning ordinance and only to the following activities:¹⁰²

1. The construction or installation of any new principal building or principal use; and
2. The expansion of any existing principal building or principal use that results in an increase in gross floor area or site area improvements by more than 5% or 1,000 square feet, whichever is greater. In the case of expansions that trigger compliance with transition yard requirements, transition yard landscaping is required only in proportion to the degree of expansion. The city arborist is authorized to allow the transition yard to be established adjacent to the area of expansion or to disperse transition yard landscaping along the entire site transition area.

27-13.50-B. Transition Yard Types

1. Four transition yard types are established in recognition of the different contexts that may exist. They are as follows:

Transition Yard Types				
Specifications	TY1	TY2	TY3	TY4
Min. Yard Width ^[1] (feet)	7.5	10	15	30
Min. Fence/Wall Height (feet)	6 (wall required)	6	6	6
Min. Trees (per 100 feet)				
Canopy	Not required	3	4	4
Understory	4	3	4	5
Min. Shrubs (per 100 feet)	Not required	Not required	30	30

- [1] Yard widths calculated on the basis of average per 100 feet, provided that the yard width at any point may not be less than 50% of the minimums stated in the table. Required zoning district setbacks may be counted toward satisfying transition yard widths.

¹⁰¹ These “transition yard” provisions are new.

¹⁰² The idea is that the supplemental use regulations and the zoning district provisions will be amended as needed to specifically reference when and where a transition yard is required. Per the comprehensive plan, for example, transition yards will always be required for new multi-unit residential projects on lots abutting single dwelling districts.

Figure 13-4: Transition Yard 1 (TY1)*Figure 13-5: Transition Yard 2 (TY2)*

Figure 13-6: Transition Yard 3 (TY3)



Figure 13-7: Transition Yard 4 (TY4)



2. No buildings or parking areas may be located in required transition yards. Breaks for motorized and non-motorized transportation access are allowed.

27-13.50-C. Landscape Materials and Design

Transition yard landscaping is subject to the regulations of Sec. [27-13.80](#).

27-13.60 Screening

27-13.60-A. Features to be Screened

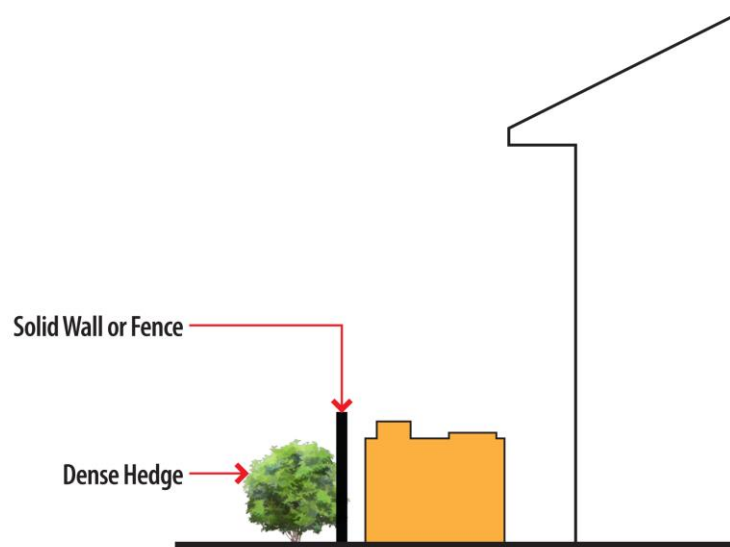
The following features must be screened from view of public rights-of-way, public open spaces and from lots used or zoned for residential purposes, as specified in this section.

1. Ground-mounted Mechanical Equipment
2. Roof-mounted Mechanical Equipment
3. Refuse/Recycling Containers
4. Outdoor Storage of Materials, Supplies and Equipment

27-13.60-B. Ground-mounted Mechanical Equipment

All ground-mounted mechanical equipment over 30 inches in height is subject to principal building setbacks and must be screened from view by a solid fence, solid wall, dense hedge, or combination of such features. The hedge, fence or wall must be tall enough to screen the equipment.

Figure 13-8: Screening of Ground-mounted Mechanical Equipment

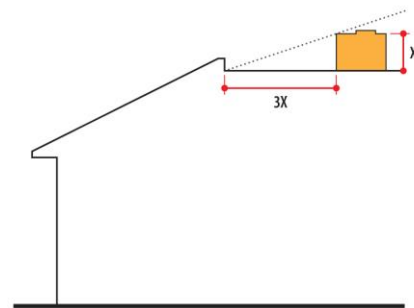
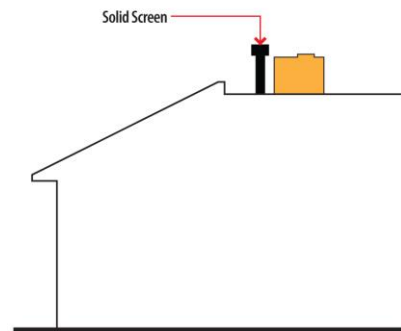
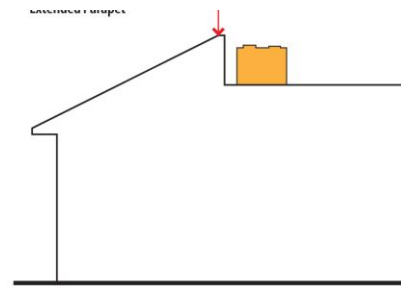


27-13.60-C. Roof-mounted Mechanical Equipment

Roof-mounted mechanical equipment (e.g., air conditioning, heating, cooling, ventilation, exhaust and similar equipment, but not solar panels, wind energy or similar renewable energy devices) over 30 inches in height must be screened from ground-level view in one of the following ways:

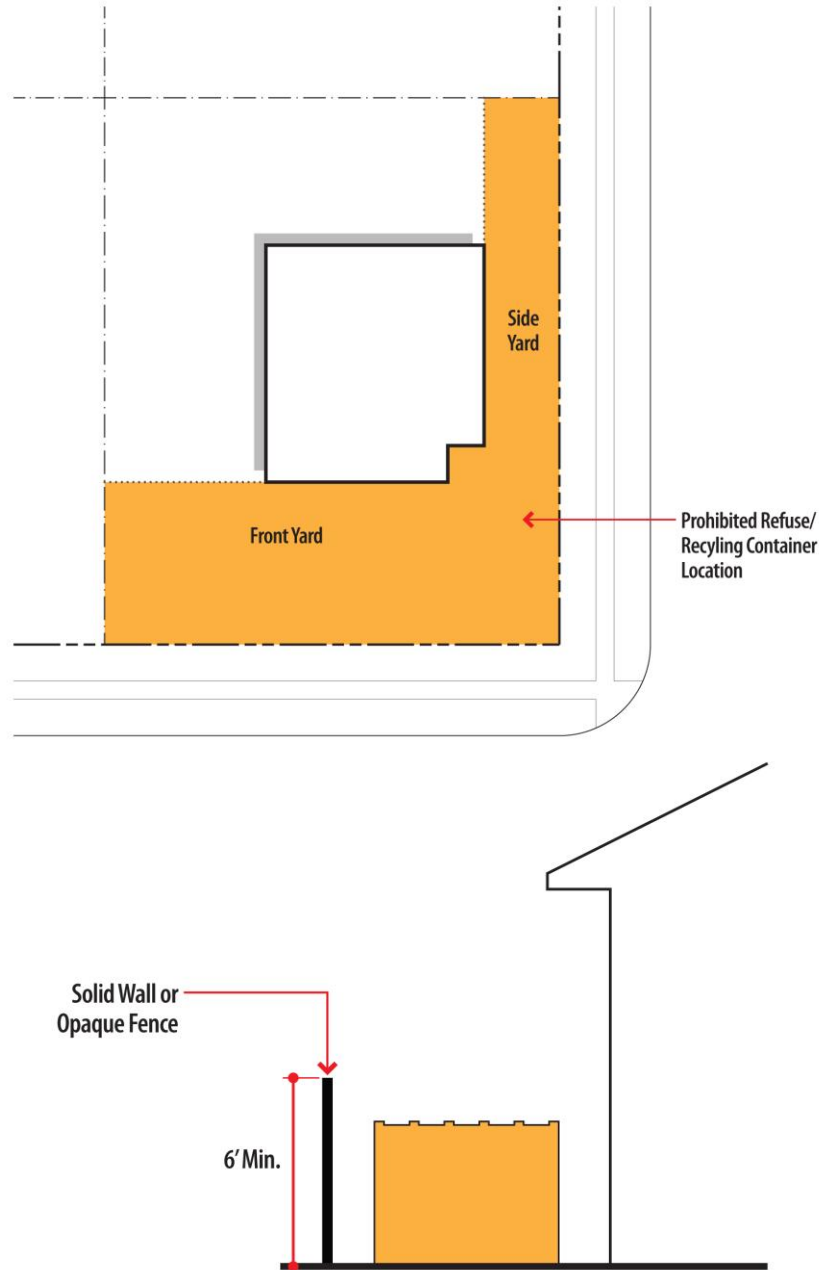
1. A parapet that is as tall as the tallest part of the equipment;
2. A solid screen around the equipment that is at least as tall as the tallest part of the equipment, with the screen an integral part of the building's architectural design; or
3. An equipment setback from roof edges that is at least 3 feet in depth for each one foot of equipment height.

Figure 13-9: Screening of Roof-mounted Mechanical Equipment



27-13.60-D. Refuse/Recycling Containers

Refuse/recycling containers must be screened from view of streets and all abutting lots with a solid wall or opaque fence at least 6 feet in height. Refuse/recycling containers may not be located in front or street side setbacks.

Figure 13-10: Location and Screening of Refuse/Recycling Containers**27-13.60-E. Outdoor Storage of Materials, Supplies and Equipment**

All stored materials, supplies, merchandise, vehicles, equipment, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by a fence, wall, dense hedge, or combination of such features with a minimum height of 6 feet at the time of installation.

27-13.60-F. Landscape Materials and Design

Landscape material used to satisfying the screening requirements of this section are subject to the regulations of Sec. [27-13.80](#).

27-13.70 Landscape Plans

All applications for development permit activities that are subject to the landscape and screening regulations of this article must be accompanied by a separate landscape plan that has been prepared and sealed by a Georgia-registered landscape architect, certified arborist or registered forester. No certificate of occupancy or similar authorization may be issued unless city arborist determines that the landscaping regulations of this article have been met.

27-13.80 Landscape Material and Design

27-13.80-A. Landscaping with Required Landscape Areas

Required landscaped areas must be covered with biodegradable mulch and ground cover plants.

27-13.80-B. Existing Trees and Vegetation

Existing non-invasive trees and shrubs count toward satisfying the landscaping and screening regulations of this article if they are located within the subject area and they comply with the plant height and size requirements of this section.

27-13.80-C. Plant Selection

1. Trees and plants selected for required landscape areas must be well-suited to the microclimate and on-site soil conditions.
2. Trees and plant material must comply with the specifications found in *American Standards for Nursery Stock* (ANSI).
3. Invasive species may not be used to meet landscape requirements.
4. If more than 30 trees will be used, a mixture of 3 or more tree species must be used. If more than 50 shrubs will be used, a mixture of 3 or more shrub species must be used.¹⁰³
5. All plant materials are subject to the approval of the city arborist.

27-13.80-D. Trees

1. Deciduous

Deciduous trees used to satisfy the requirements of this article must be drought-tolerant, have a minimum caliper size of 3 inches¹⁰⁴ (measured 6 inches above the root ball) and a minimum height of 10 feet.

2. Evergreen

Evergreen trees used to satisfy the requirements of this article must be drought-tolerant and have a minimum height of 6 feet at time of planting.

¹⁰³ Ordinance currently says no more than 35% of any single tree or shrub species may be used.

¹⁰⁴ The landscape regulations of Chapter 27 require trees with minimum caliper size of 3 inches. Chapter 16 requires 2-inch caliper trees.

27-13.80-E. Shrubs and Ornamental Grasses

Shrubs and ornamental grasses used to satisfy the requirements of this article must a minimum 3-gallon size.¹⁰⁵

27-13.80-F. Groundcover Plants

Groundcover plants are deciduous or evergreen plants that grow low and spread horizontally, not including turf. Groundcover plants used to satisfy the requirements of this article must be at least 1-gallon size.

27-13.80-G. Mulch

All required trees and shrubs must be located within a (biodegradable) mulched area.

27-13.80-H. Curbs and Vehicle Barriers

Landscaped areas in or abutting parking lots must be protected by concrete curbing, anchored wheel stops, or other durable barriers approved by the city arborist. Alternative barrier designs that provide improved infiltration or storage of stormwater are encouraged. Curbs protecting landscape areas may be perforated, have gaps or otherwise be designed to allow stormwater runoff to pass through them.

27-13.80-I. Installation

1. All landscaping must be installed in a sound workmanlike manner and in accordance with accepted good landscape planting procedures.
2. Newly planted trees may not be staked or guyed unless they are unable to stand upright without support. Any staking and guying materials must be removed within one year of installation.
3. If the landscape design incorporates plants that require seasonal watering, an automatic irrigation system must be provided to maintain the landscaping in healthy, attractive condition.¹⁰⁶
 - a. Preserved trees, shrubs, and native plant communities are not required to be irrigated, unless directed by the city arborist.
 - b. Drip irrigation systems must be installed in areas planted with trees, shrubs, perennials and groundcovers. The city arborist may approve an alternate comparable system if it provides irrigation at the ground level rather than an upright spray.
 - c. Turf grass areas must be irrigated on a different zone than trees, shrubs, perennials and groundcovers.
 - d. Moisture sensor and/or rain gauge equipment is required on automatic irrigation systems to avoid irrigation during periods of sufficient rainfall.
 - e. No significant irrigation overthrow is permitted onto impervious surfaces.

¹⁰⁵ The city arborist is currently evaluating proposed revisions to this standard.

¹⁰⁶ The city arborist is currently evaluating proposed revisions to these provisions.

- f. A watering schedule shall be submitted as part of the landscape plan. The schedule shall indicate the different irrigation zones and the frequency and amount of irrigation. Landscape plans must identify methods that will be employed to promote resource-efficient landscaping for the conservation of water and other natural resources, such as:¹⁰⁷
- (1) Practical turf areas;
 - (2) Use of water-conserving plant material;
 - (3) Grouping of plants with similar water requirements;
 - (4) Installation of pervious paving to encourage groundwater recharge and re-use and to discourage run-off;
 - (5) Rainwater harvesting techniques;
 - (6) Use of mulches;
 - (7) Use of soil amendments based on soil analysis;
 - (8) Use of reclaimed water, and
 - (9) Other practices and techniques.

27-13.80-J. Maintenance

The property owner, occupant, tenant and respective agent of each, if any, are jointly and severally responsible for the maintenance and protection of all required landscaping in perpetuity, in accordance with the following regulations:

1. Landscaping must be kept reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to exist in a healthy growing condition;
2. Landscaping must be mowed or trimmed in a manner and at a frequency appropriate to the use made of the material and species on the site so as not to detract from the appearance of the general area. Growth of plant material at maturity must be considered where future conflicts such as view, signage, street lighting, utilities and circulation might arise;
3. All landscaping must be maintained to minimize property damage and public safety hazards, including removal of dead or decaying plant material, and removal of low-hanging branches next to sidewalks and walkways obstructing street lighting; and
4. All pruning must be done in accordance with ANSI A300 (part 1) "Standards for Tree Care Operations—Pruning." Tree topping is prohibited. Crown reduction pruning may be used instead to reduce the height of a tree when necessary. Topped trees may not be counted toward tree planting requirements.
5. The property owner must post a maintenance bond or cash escrow prior to issuance of a certificate of occupancy guaranteeing all landscape materials and work

¹⁰⁷ This is a new proposed requirement.

for a period of 2 years. The bond or escrow must be for at least 115% percent of the estimated cost of replacing all required landscaping. An itemized estimate must be provided by the owner and based on the opinion of a landscape contractor and found to be reasonable by the city arborist. The city arborist must make an inspection and notify the owner of any corrections to be made within the two-year guarantee period.

27-13.90 Alternative Compliance¹⁰⁸

In order to encourage creativity in landscape and screening design and to allow for flexibility in addressing atypical, site-specific development/redevelopment challenges, the city arborist is authorized to approve alternative compliance landscape plans when the city arborist determines that one or more of the following conditions are present:

- 27-13.90-A.** The site has space limitations or an unusual shape that makes strict compliance impossible or impractical;
- 27-13.90-B.** Conditions on or adjacent to the site such as topography, soils, vegetation or existing structures or utilities are such that strict compliance is impossible, impractical or of no value in terms of advancing the general purposes of this article;
- 27-13.90-C.** Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary; or
- 27-13.90-D.** Creative, alternative landscape plans will provide an equal or better means of meeting the intent of the landscaping and screening regulations of this article.

¹⁰⁸ This is entirely new.

Article 14 Outdoor Lighting¹⁰⁹

27-14.10 Purpose

The regulations of this article are intended to:

- 27-14.10-A.** permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment and commerce;
- 27-14.10-B.** curtail and reverse the degradation of the nighttime visual environment and the night sky;
- 27-14.10-C.** preserve the dark night sky for astronomy;
- 27-14.10-D.** minimize glare, obtrusive light and artificial sky glow by limiting outdoor lighting that is misdirected, excessive or unnecessary;
- 27-14.10-E.** conserve energy and resources to the greatest extent possible; and
- 27-14.10-F.** help protect the natural environment from the damaging effects of night lighting from human-made sources.

27-14.20 Conformance with Applicable Regulations

All outdoor lighting devices must comply with the provisions of this article, the building code and the electrical code, required permits and inspections, as applicable.

27-14.30 Prohibited Lighting

The following are expressly prohibited:

- 27-14.30-A.** aerial lasers;
- 27-14.30-B.** searchlight style lights;
- 27-14.30-C.** light sources that exceed 200,000 lumens or intensity in any direction of 2,000,000 candelas or more;
- 27-14.30-D.** mercury vapor lamps;
- 27-14.30-E.** low-sodium vapor lamps; and
- 27-14.30-F.** exposed neon lighting.

27-14.40 Exempt Lighting

The following luminaries and lighting systems are expressly exempt from the regulations of this article:

- 27-14.40-A.** underwater lighting used for the illumination of swimming pools and fountains;
- 27-14.40-B.** temporary holiday lighting;
- 27-14.40-C.** lighting required and regulated by the Federal Aviation Administration, or other authorized federal, state or local government agency;

¹⁰⁹ The outdoor lighting regulations of this article come from Sec. 27-1324 of the current zoning ordinance. Because the lighting regulations were completely updated in 2010, no substantive modifications have been proposed.

- 27-14.40-D.** emergency lighting used by police, fire, or medical personnel, or at their direction;
- 27-14.40-E.** all outdoor light fixtures producing light directly from the combustion of fossil fuels, such as kerosene and gasoline;
- 27-14.40-F.** security lighting controlled and activated by a motion sensor device for a duration of 10 minutes or less.

27-14.50 Regulations

27-14.50-A. Applicability

1. The regulations of this section apply:
 - a. to all new land uses, new developments and new buildings that require a permit
 - b. whenever existing land uses, developments or buildings are expanded by 25% or more in terms of additional dwelling units, parking spaces or gross floor area, in which case the entire property must be brought into conformance with these regulations; and
 - c. whenever existing outdoor lighting constituting 60% or more of the permitted lumens for the parcel is modified or replaced, no matter the actual amount of lighting already on the site.
2. When existing developments or buildings are expanded by less than 25% in terms of additional dwelling units, parking spaces or gross floor area and the expansion requires a permit, the applicant must submit a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site must comply with the shielding and lamp type regulations of this article.

27-14.50-B. General Regulations

1. Outdoor lighting fixtures must be full cutoff and placed so as to allow no light above the horizontal as measured at the luminaire, except as herein noted in this section (as in the case of period fixtures, cutoff fixtures may be used) and except as allowed in [Chapter 20](#) of the municipal code (Signs).
2. Outdoor lighting fixtures must be located, aimed or shielded to minimize glare and stray light trespassing across lot lines and into the public right-of-way.
3. Flood or spot lamps must be positioned no higher than 45 degrees above straight down (half-way between the vertical and the horizontal) when the source is visible from any off-site residential property or public roadway.

At Property Lines Including Rights-of-Way	Maximum Foot-candles
At property line abutting a residential or an agricultural use	0.5
At property line abutting an office or institutional use	1.0
At property line abutting a commercial or industrial use	1.5

Off-Street Parking Lots	Minimum Foot-candles	Average Foot-candles	Maximum Foot-candles
Residential areas	0.5	2.0	4.0
Office-professional areas	1.0	3.0	6.0
Commercial areas	2.0	6.0	12.0
Light industrial areas	1.0	4.0	8.0

4. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as described herein for fully shielded fixtures.
5. Lighting on sites consisting of multiple uses must conform to the standards of the respective uses.
6. Illumination levels are measured from any height and orientation of the measuring device at any location along the property line except the lighting of parking lots must be measured at grade with the meter sensor held horizontally at the surface.

27-14.50-C. Specific Uses and Activities

This subsection establishes supplemental lighting regulations for specific types of uses and activities. All lighting not directly associated with the special use areas designated below must comply with all other applicable regulations of this article.

1. Outdoor Sports, Recreation Fields and Performance Areas

Lighting of outdoor recreational facilities (public or private), such as, but not limited to, outdoor athletic fields, courts, tracks, special event or show areas must comply with the following regulations:

- a. Facilities designed for municipal leagues, elementary to high school levels of play and training fields for recreational or social levels of play, college play, semi-professional, professional or national levels of play must utilize luminaries with minimal uplight consistent with the illumination constraints of the design. Where fully shielded fixtures are not utilized, acceptable luminaries include only those that:
 - (1) Are provided with internal and/or external glare control louvers or lenses, and are installed so as to minimize uplight and offsite light trespass and glare, and
 - (2) All lighting installations must be designed to achieve the illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA RP-6).

Light Trespass Limitations for Sports Lighting

Environmental Zone	Pre-Curfew Limit	Post-Curfew Limit	Degrees Above Nadir (not to exceed 12,000 candela from a single fixture)
E1	Not allowed	0.0 max vertical	Not allowed
E2	0.25 max horizontal 1.0 max vertical	0.10 max vertical	82 degrees
E3	0.5 max horizontal 2.0 max vertical	0.30 max vertical	85 degrees
E4	0.75 max horizontal 3.0 max vertical	0.60 max vertical	88 degrees

E1 = Areas with intrinsically dark landscapes, such as national parks, areas of outstanding natural beauty, etc.

E2 = Areas of low ambient brightness, including sensitive residential areas.

E3 = Areas of medium ambient brightness, generally being urban residential areas.

E4 = Areas of high ambient brightness, which would include dense urban areas with mixed residential and commercial use with high levels of nighttime activity.

- b.** All events must be scheduled so as to complete all activity no later than 10:30 p.m. Illumination of the playing field, court or track is permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. Field lighting for these facilities must be turned off within 30 minutes of completion of the last event of the night.
- c.** All light poles must be set back a minimum 60 feet from any residential property line or right-of-way.

2. Service Station Canopies and Parking Garages

- a.** All luminaries mounted on or recessed into the lower surface or service station canopies and parking structures must be fully shielded and utilize flat lenses.
- b.** The total light output of luminaries mounted on the lower surface, or recessed into the lower surface of the canopy, and any lighting within signage or illuminated panels over the pumps, may not exceed 50 foot-candles. The total light output of other illuminated areas of a service station may not exceed 15 foot-candles.
- c.** Illuminance levels for the interior of parking structures, where interior lighting is visible from outside the structure, must conform to IESNA recommendation RP-20.
- d.** Lights may not be mounted on the top or sides of a canopy, and the sides of the canopy may not be illuminated.

3. Security Lighting

- a.** Security lighting must be directed towards the targeted area.
- b.** Sensor activated lighting must be located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-

way, and the system must be designed and maintained so that lights are not activated by activity off of the subject property.

4. Pedestrian Path Lighting

Lighting posts for pedestrian path lighting may not exceed 16 feet in height from finished grade.

5. Architectural Accent Lighting

- a. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping, or art must be located, aimed and shielded so that light is directed only on those features. Such fixtures must be aimed or shielded to minimize light spill into the dark night sky in conformance with the luminaire standards.
- b. Lighting fixtures may not generate glare, or direct light beyond the facade onto a neighboring property, streets or into the night sky.

6. Temporary Lighting Permits

Permits for temporary lighting may be granted by the community development department if the total output from the luminaries does not exceed 50 foot-candles, subject to the following regulations:

- a. The lighting may not remain for more than 30 days, except that permits for a major construction project may extend to completion.
- b. The lighting must be designed in such a manner as to minimize light trespass and glare.
- c. Temporary recreational lighting allowed by permit must be extinguished by 10:30 p.m.

7. Parking Areas

- a. All lighting fixtures servicing parking lots must be directed downward and not towards buildings or other areas.
- b. Parking lots must be illuminated to a minimum illumination level of 0.4 foot-candles at grade level, and the ratio of the average illumination to the minimum illumination may not exceed 4:1.
- c. Light poles used in parking lots with 100 parking spaces or less may not exceed 20 feet in height. Light poles used in parking lots with more than 100 parking spaces may not exceed 35 feet in height.

8. Street lights

Unless street light fixtures are of a period or architecture style as approved by the public works department, all new, repaired or replaced fixtures must be full cutoff fixtures.

27-14.60 Variances

Applications for variances from the outdoor lighting regulations of this article must include the recommended practices of the Illuminating Engineering Society of North America, a professional engineer or other commonly recognized authority on outdoor lighting. Applications must also include information concerning the proposed design and appearance of the luminaire and how light trespass and glare will be limited.

27-14.70 Plans

Applicants for any permit required by any provision of the ordinances of the city in connection with proposed work involving outdoor lighting fixtures must submit, as part of the application for permit, evidence that the proposed work will comply with the outdoor lighting regulations of this article.

27-14.70-A. The submission must include at least the following information with the application for the required permit:

1. Plans indicating the location on the premises of each illuminating device, both proposed and any already existing on the site.
2. Description of all illuminating devices, fixtures, lamps, supports, reflectors, both proposed and existing. The description may include, but is not limited to catalog cuts and illustrations by manufacturers.
3. Photometric data, such as that furnished by manufacturers or similar, showing the angle of cut-off of light emissions.
4. Photometric plans must include the maximum and average light layout.

27-14.70-B. The above required plans, descriptions, and data must be complete and accurate so that the community development department is able to readily determine whether the proposal will comply with the requirements of this article.

27-14.80 Certification

For all projects, certification that the lighting as installed, conforms to the approved plans must be provided by a licensed professional before the certificate of occupancy is issued. Until this certification is submitted, approval for use by the issuance of the certificate of occupancy may not be issued.

Article 15 Fences and Walls

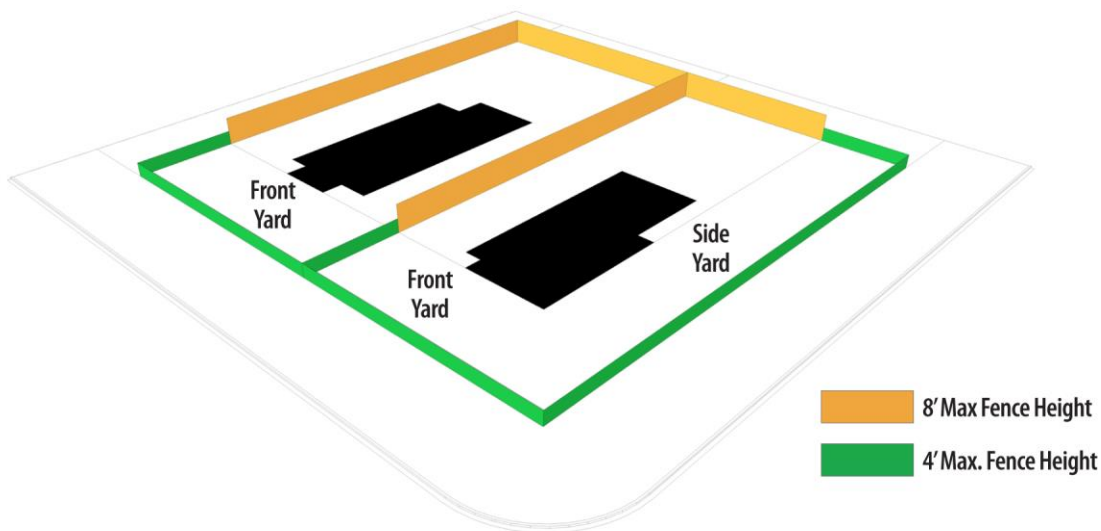
27-15.10 Applicability

The fence and wall regulations of this article govern the design and location all fences and walls, including retaining walls and wing walls.

27-15.20 Maximum Height

In residential zoning districts fences and walls located in street yards may not exceed 4 feet in height. All other fences and walls are limited to a maximum height of 8 feet unless otherwise expressly stated in this zoning ordinance.¹¹⁰

Figure 15-1: Maximum Fence and Wall Heights



27-15.30 Required Fences and Walls

When fences or walls are required to be installed, the wall or fence must be in place before issuance of a certificate of occupancy for the principal use or structure.

27-15.40 Retaining Walls in Single-dwelling Residential Districts

The regulations of this section apply to retaining walls in single-dwelling residential zoning districts.

- 27-15.40-A.** Newly constructed retaining walls are subject to the following maximum height limits:

¹¹⁰ Current ordinance also states “No wall or fence shall be constructed in any public right-of-way except upon approval of the director of public works.” This sentence has been omitted because it seems misplaced in the zoning ordinance and may not accurately describe the approval process for private improvements in the public ROW.

Required Approval	Maximum Height (feet)
As of right	Up to 4
Administrative permit (Article 23)	More than 4, up to 8 ¹¹¹
Special exception (Article 22)	More than 8, up to 12

- 27-15.40-B.** Existing retaining walls may be repaired and replaced if the repair or replacement does not result in an increase in the height of the wall.
- 27-15.40-C.** On lots occupied by a detached house, retaining walls must be set back from all property lines a distance equal to at least 50% of the required building setback. The community development director is authorized to approve an administrative permit (in accordance with [Article 23](#)) allowing [a maximum retaining wall setback reduction of 50% \(down to not less than 25% of the required building setback\)](#).
- 27-15.40-D.** A decision to allow an authorized administrative permit or special exception must be based on a determination that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner, and a determination that no practical alternative retaining wall design is feasible. The applicant must submit a site plan or a topographical map certified by an engineer or landscape architect with any exception application for retaining walls.
- 27-15.40-E.** Retaining walls may not exceed 12 inches above grade at the higher side elevation.

27-15.50 Wing Walls in Single-dwelling Residential Districts

The regulations of this section apply to wing walls in single-dwelling residential zoning districts.

- 27-15.50-A.** Newly constructed wing walls that are part of the foundation of the principal structure are permitted when exceptional topographical restrictions exist on the subject lot in context with the adjoining properties that were not created by the owner or applicant.
- 27-15.50-B.** Wing walls may not exceed 10 feet in height, or the height of the foundation wall to which it is attached, whichever results in a lower wing wall height. Wing walls may not be used to allow a house to exceed the detached house infill regulations of Sec. [27-9.170](#).
- 27-15.50-C.** When affixed to a detached house, a wing wall may project into a street setback or rear setback for a distance not to exceed 10 feet. The community development director is authorized to approve an administrative permit (in accordance with [Article 23](#)) allowing a wing wall to project a side setback to a point not closer than 5 feet from the side lot line.¹¹²
- 27-15.50-D.** Guardrails must be installed atop all wing walls exceeding 30 inches in height above grade. Guardrails may not be opaque and must be a minimum of 36 inches and a maximum of 48 inches in height.¹¹³
- 27-15.50-E.** Wing walls may not exceed 12 inches above grade at the higher side elevation.

¹¹¹ Currently, the community development director is authorized to allow up to 2 additional feet in retaining wall height. Additional height and setback modifications currently require approval as a variance.

¹¹² This is a proposed change; side setback encroachment currently requires approval as a variance.

¹¹³ Staff review comment suggested tying this to GA state building code, but since we couldn't find guardrail requirements in the codes, we have deferred. Awaiting further guidance.

Article 16 Miscellaneous Provisions

27-16.10 Outdoor Storage

27-16.10-A. Where Allowed

1. Outdoor storage is prohibited in all zoning districts except the C-2 and M districts.
2. Temporary storage of construction equipment, construction materials, or construction vehicles is permitted on lots that are the subject of a valid development or building permit as long as construction work is actively being undertaken on the lot.

27-16.10-B. Required Setbacks and Screening

Outdoor storage areas in C-2 and M districts must be set back at least 50 feet from street rights-of-way and screened from view.

27-16.20 Street Frontage Required

All buildings must be located on a lot or parcel that abuts a public street or private street.

27-16.30 State Routes

Any applicant for any development or building permit for any lot or parcel of land fronting on any roadway that is classified as a state route by the state department of transportation must obtain the preliminary approval of both the city public works department and the state department of transportation before beginning any construction of any type.

27-16.40 Intersection Visibility

No fence, wall, building, structure, sign, plant material, or other obstruction of any kind may be maintained within 15 feet of the intersection of the rights-of-way lines of any 2 streets extended, or of a street intersection with a railroad right-of-way line.

~~27-16.50 Cross-district Access~~

~~Off-street parking, driveways or any other building, structure or use of land, including any accessory use or structure, is permitted only on land in which the zoning district classification authorizes the principal use to which the parking or driveway or other building, structure or use of land is accessory.~~

PART V: REVIEW AND APPROVAL PROCEDURES

Article 17	Common (Procedural) Provisions.....	17-1
27-17.10	Applicability.....	17-1
27-17.20	Georgia Zoning Procedures Law	17-1
27-17.30	Developments of Regional Impact	17-1
27-17.40	Summary of Review and Decision-making Authority	17-1
27-17.50	Pre-application Conferences	17-2
27-17.60	Neighbor Communication Summary	17-2
27-17.70	Applications and Fees.....	17-3
27-17.80	Application Processing Cycles	17-4
27-17.90	Withdrawal of Applications	17-5
27-17.100	Public Hearings.....	17-5
27-17.110	Action by the Planning Commission and Mayor and City Council	17-5
27-17.120	Conditions of Approval.....	17-6
27-17.130	Review and Decision-Making Criteria; Burden of Proof or Persuasion.....	17-6
Article 18	Amendments	18-1
27-18.10	Applicability.....	18-1
27-18.20	Authority to Initiate.....	18-1
27-18.30	Pre-application Conference.....	18-1
27-18.40	Neighbor Communications Summary.....	18-1
27-18.50	Application Filing.....	18-1
27-18.60	Public Hearing Notices	18-2
27-18.70	Community Council Meeting and Recommendation.....	18-3
27-18.80	Planning Commission Public Hearing and Recommendation	18-3
27-18.90	City Council Public Hearing and Decision	18-3
27-18.100	Review and Approval Criteria	18-3
27-18.110	Concurrent Variances	18-5
27-18.120	Successive Applications.....	18-5
27-18.130	Amending Conditions of Approval.....	18-6
Article 19	Special Land Use Permits	19-1
27-19.10	Applicability.....	19-1
27-19.20	Authority to File	19-1
27-19.30	Pre-application Conference.....	19-1
27-19.40	Neighbor Communications Summary.....	19-1
27-19.50	Application Filing.....	19-1
27-19.60	Public Hearing Notices	19-1
27-19.70	Planning Commission Public Hearing and Recommendation	19-2
27-19.80	City Council Public Hearing and Decision	19-2
27-19.90	Review and Approval Criteria	19-3

27-19.100	Concurrent Variances	19-4
27-19.110	Successive Applications	19-4
27-19.120	Transfer of Special Land Use Permits	19-4
27-19.130	Amending Conditions of Approval.....	19-2
Article 20	Design Review	20-1
27-20.10	Applicability.....	20-1
27-20.20	Authority to File	20-1
27-20.30	Application Filing.....	20-1
27-20.40	Meeting Notice.....	20-1
27-20.50	Design Review Advisory Committee Meeting and Recommendation	20-1
Article 21	Variances	21-1
27-21.10	Applicability.....	21-1
27-21.20	Prohibited Variances	21-1
27-21.30	Authority to File	21-1
27-21.40	Application Filing.....	21-1
27-21.50	Public Hearing Notices	21-2
27-21.60	Zoning Board of Appeals Public Hearing and Decision	21-2
27-21.70	Review and Approval Criteria	21-2
27-21.80	Successive Applications.....	21-4
27-21.90	Appeals.....	21-4
27-21.100	Transfer of Variances	21-4
27-21.110	Amending Conditions of Approval.....	21-4
Article 22	Special Exceptions	22-1
27-22.10	Applicability.....	22-1
27-22.20	Authority to File	22-1
27-22.30	Application Filing.....	22-1
27-22.40	Zoning Board of Appeals Public Hearing and Decision	22-1
27-22.50	Review and Approval Criteria	22-2
27-22.60	Appeals.....	22-3
27-22.70	Transfer of Special Exceptions.....	22-3
27-22.80	Amending Conditions of Approval.....	22-3
Article 23	Administrative Permits	23-1
27-23.10	Applicability.....	23-1
27-23.20	Authority to File	23-1
27-23.30	Application Filing.....	23-1
27-23.40	Posted Notice	23-2
27-23.50	Community Development Director's Decision	23-2
27-23.60	Review and Approval Criteria	23-2
27-23.70	Appeals.....	23-2
27-23.80	Transfer of Administrative Permit	23-2

27-23.90	Amending Conditions of Approval.....	23-3
27-23.100	Reporting.....	23-3
Article 24	Appeals of Administrative Decisions.....	24-1
27-24.10	Applicability.....	24-1
27-24.20	Authority to File	24-1
27-24.30	Application Filing.....	24-1
27-24.40	Effect of Appeal	24-1
27-24.50	Record of Decision	24-1
27-24.60	Hearing Notice	24-1
27-24.70	Hearing and Decision	24-1
27-24.80	Review and Approval Criteria	24-2
27-24.90	Appeals.....	24-2
Article 25	Development Permits	25-1
27-25.10	Applicability.....	25-1
27-25.20	Applications.....	25-1
27-25.30	Determination of Compliance and Issuance of Permits	25-1
27-25.40	Permit Expiration	25-1

Article 17 Common (Procedural) Provisions

27-17.10 Applicability

The common provisions of this article apply to all of the review and approval procedures ([Article 18](#) through [Article 25](#)) of this zoning ordinance unless otherwise expressly stated.

27-17.20 Georgia Zoning Procedures Law

27-17.20-A. The review and approval procedures of this zoning ordinance are intended to comply with the provisions of the *Georgia Zoning Procedures Law*, O.C.G.A. §36-66 ET. seq., which is incorporated by reference in its entirety into this zoning ordinance. If any provision of this zoning ordinance is in conflict with any provision of the zoning procedures law or if this zoning ordinance fails to incorporate a provision required for the implementation of the zoning procedures law, the zoning procedures law controls.

27-17.20-B. This zoning ordinance is also intended to comply with the provisions of O.C.G.A. §36-67 pertaining to zoning decisions. If any provision of this zoning ordinance is in conflict with any provision of O.C.G.A. §36-67 or if this zoning ordinance fails to incorporate a provision required for the implementation of O.C.G.A. §36-67, state law controls.

27-17.30 Developments of Regional Impact

27-17.30-A. Any application for a development permit or building permit that constitutes a development of regional impact must be forwarded to the Atlanta Regional Commission for review. No final local decision may be made on the application until the Atlanta Regional Commission's review is complete, within the time limit specified by state law.

27-17.30-B. Any application for a zoning map amendment or special land use permit that constitutes a development of regional impact must be forwarded to the Atlanta Regional Commission for review. No final local decision may be made on the zoning map amendment or special land use permit until the Atlanta Regional Commission's review is complete, within the time limit specified by state law.

27-17.40 Summary of Review and Decision-making Authority

The following table provides a summary of review and decision-making authority under this zoning ordinance. In the event of conflict between this summary table and the detailed procedures identified in this zoning ordinance, the detailed procedures govern.

Procedure	Community Development Dir.	Design Review Board ¹¹⁴	Zoning Board of Appeals	Community Council	Planning Commission	Mayor and City Council
R = review and recommendation DM = decision-making body (final decision) < > = public hearing						
Comprehensive Plan Land Use Map Amendments Article 18	R	—	—	R	<R>	<DM>
Zoning Ordinance Text and Map Amendments Article 18	R	—	—	R	<R>	<DM>
Special Land Use Permits Article 19	R	—	—	—	<R>	<DM>
Variances Article 21	R	—	<DM>	—	—	—
Special Exceptions Article 22	R	—	<DM>	—	—	—
Administrative permits Article 23	DM	—	—	—	—	—
Appeals of Administrative Decisions Article 24	—	—	DM	—	—	—
Development Permits Article 25	DM	R[1]	—	—	—	—

[1] Responsible for review and recommendation only where expressly indicated in this zoning ordinance.

27-17.50 Pre-application Conferences

27-17.50-A. Purpose

Pre-application conferences provide an early opportunity for city staff and applicants to discuss the procedures, standards and regulations required for development approval under this zoning ordinance.

27-17.50-B. Applicability

Pre-application conferences are required whenever the provisions of this zoning ordinance expressly state that they are required. They are encouraged in all cases.

27-17.50-C. Scheduling

Pre-application conferences must be scheduled with community development department staff.

27-17.50-D. Guidelines

The community development director may establish guidelines for pre-application conferences, including information that should be provided and any available alternatives to face-to-face meetings, such as telephone conversations and email correspondence.

27-17.60 Neighbor Communication Summary¹¹⁵

27-17.60-A. Purpose

The purpose of neighbor communication summary requirements is to help educate applicants for development approvals and neighbors about one another's interests, to attempt to resolve issues in a manner that respects those interests and to identify unresolved issues.

¹¹⁴ Currently known as the "design review advisory committee" (DRAC).

¹¹⁵ This is new—a proposed alternative to the currently required pre-submittal community meeting.

27-17.60-B. Applicability

Neighbor communication summaries are required to be submitted whenever the provisions of this zoning ordinance expressly state that they are required. They are encouraged in all cases.

27-17.60-C. Summary Report

The applicant must submit a neighbor communications summary at the time of application submittal. The summary report must describe:

1. efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified);
2. How information about the proposal was shared with neighbors (mailings, workshops or meetings, open houses, flyers, door-to-door handouts, etc.);
3. who was involved in the discussions;
4. suggestions and concerns raised by neighbors; and
5. what specific changes to the proposal were considered and/or made as a result of the communications.

27-17.70 Applications and Fees

27-17.70-A. Form of Application

1. Applications required under this zoning ordinance must be submitted in a form and in such numbers as required by the community development director.
2. The community development director must develop checklists of application submittal requirements and make those checklists available to the public.

27-17.70-B. Application Filing Fees

Applications must be accompanied by the fee amount indicated in the fee schedule that has been approved by mayor and city council. Application filing fees are nonrefundable once the application has been accepted and determined to be complete.

27-17.70-C. Application Completeness, Accuracy and Sufficiency

1. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required application filing fee.
2. The community development director must make a determination of application completeness in accordance with the schedule established pursuant to Sec. [27-17.80](#).
3. If an application is determined to be incomplete, the community development director must provide written notice to the applicant along with an explanation of the application's deficiencies.

4. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.
5. Applications deemed complete by the community development director will be considered to be in the processing cycle and will be reviewed by city staff, affected agencies and other review and decision-making bodies in accordance with applicable review and approval procedures of this zoning ordinance.
6. The community development director may require that applications or plans be revised before being placed on an agenda for possible action if the community development director determines that:
 - a. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's or application's compliance with applicable regulations;
 - b. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with applicable regulations; or
 - c. The decision-making body does not have legal authority to approve the application or plan as submitted.

27-17.80 Application Processing Cycles

The community development director, after consulting with review and decision-making bodies, is authorized to promulgate reasonable application processing cycles and schedules for processing applications under this zoning ordinance. Processing cycles may establish:

- 27-17.80-A.** deadlines for receipt of complete applications;
- 27-17.80-B.** timeframes for determination of application completeness;
- 27-17.80-C.** dates of regular meetings;
- 27-17.80-D.** timing of staff reviews and reports;
- 27-17.80-E.** estimated timeframes for completion of reviews and decision-making;
- 27-17.80-F.** timelines for consideration of comprehensive plan amendments (e.g., annual or semi-annual); and
- 27-17.80-G.** other information regarding administrative practices and customs that will assist applicants and the general public.

27-17.90 Withdrawal of Applications¹¹⁶

Owner-initiated applications may be withdrawn at the discretion of the applicant without prejudice at any time before the authorized decision-making body votes on the matter. Applications that are withdrawn with prejudice are subject to all applicable limitations on the frequency of filing as if the application had been denied.

27-17.100 Public Hearings

27-17.100-A. Hearing Procedures

Public hearing bodies must adopt and publish written rules governing their hearing procedures, which must be made available to the public at the public hearing.

27-17.100-B. Applicant Attendance

Applicants must appear at public hearings in person or be represented in person by their authorized agent.

27-17.100-C. Public Notices¹¹⁷

The cost of all required and courtesy public notices must be paid by the applicant in addition to all other required application fees.

27-17.100-D. Continuances

A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the public hearing.

27-17.110 Action by the Planning Commission and Mayor and City Council

27-17.110-A. The planning commission and mayor and city council may take any action that is consistent with:

1. the regulations of this zoning ordinance;
2. all rules and by-laws that apply to the decision-making body; and
3. the notice that was given.

27-17.110-B. The planning commission and mayor and city council are authorized to defer action or continue a hearing in order to receive additional information or further deliberate.

27-17.110-C. The planning commission and mayor and city council are authorized to refer matters back to a review body for further deliberations or to obtain additional information.

¹¹⁶ This provision currently applies only to amendments and SLUPs. The current ordinance states that “applications shall not be withdrawn prior to the meeting of the city council after they have been filed for advertising for public hearing before the planning commission.” The provision represents a change in the case of matters before the zoning board of appeals. For ZBA matters, the ordinance states that applications may be withdrawn without prejudice at any time before the board’s vote.

¹¹⁷ The current zoning ordinance currently requires some forms of public notice that are not required by state law, which carries some inherent risk. This draft *requires* only such hearing notices mandated by state law. All other forms of notice are considered (non-required) courtesy notice.

27-17.110-D. The planning commission and mayor and city council are authorized to defer action, continue the hearing or deny an application whenever the applicant fails to appear for a scheduled and advertised hearing or whenever the applicant fails at more than one meeting to provide the information or documentation necessary for a competent evaluation of the plan's or application's compliance with applicable regulations.

27-17.120 Conditions of Approval

When decision-making bodies approve applications with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development. No condition in the form of a development exaction for other than a project improvement may be imposed within the meaning of the *Georgia Development Impact Fee Act*. Any conditions imposed must comply with the following.¹¹⁸

- 27-17.120-A.** Conditions may be imposed to mitigate any possible adverse impacts of the proposal on neighboring persons or properties, consistent with the purposes of this zoning ordinance, the goals and objectives of the comprehensive plan and state law.
- 27-17.120-B.** Conditions must be of sufficient specificity to allow lawful and consistent application and enforcement.
- 27-17.120-C.** Conditions shall be supported by a record that evidences the relationship between the condition and the impacts of proposed use or development.
- 27-17.120-D.** Once imposed, conditions run with land and will be enforced on all present and future property owners and successors in interest.
- 27-17.120-E.** Excepts as otherwise expressly stated, amendments or changes to approved conditions may be approved only by following the same procedures as the original approval (i.e., conditions attached to a special land use permit or variance require the processing of a new application for a SLUP or variance, in accordance with the procedures of [Article 19](#) or [Article 21](#), respectively)

27-17.130 Review and Decision-Making Criteria; Burden of Proof or Persuasion

Applications must address relevant review and decision-making criteria. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria.¹¹⁹

¹¹⁸ The following rules currently apply only to text and map amendments. Including them here will make them applicable to all conditional approvals. Sec. 27-1438(2) is proposed for deletion: ~~A condition, whether recommended by a commissioner, the applicant, or any other person or entity, placed upon an application after the required deadline for advertising in the legal organ of the city prior to the scheduled hearing before the planning commission, shall be treated as an amendment to the application and shall follow the requirements of section 27-1431~~

¹¹⁹ This is a new provision, but is thought to be consistent with existing practice.

Article 18 Amendments

27-18.10 Applicability

The procedures of this article apply to comprehensive plan land use map amendments, zoning map amendments, zoning ordinance text amendments and major amendments to one or more conditions attached to previously approved zoning map amendments.

27-18.20 Authority to Initiate

Amendments to the comprehensive plan's land use map, the zoning map and the text of this zoning ordinance may be initiated by mayor following a motion and a second, any member of the city council following a motion and a second, official action of the planning commission or by the community development director acting on behalf of the mayor and city council. In addition, amendments to the comprehensive plan land use map and the zoning map may be initiated upon application by the owner of the subject property or the subject property owner's authorized agent.

27-18.30 Pre-application Conference

Pre-application conferences with staff are required for all owner-initiated amendment applications (see the pre-application provisions of Sec. [27-17.50](#)).

27-18.40 Neighbor Communications Summary¹²⁰

Neighbor communication summaries are required for all owner-initiated applications for amendments (see the neighbor communication summary provisions of Sec. [27-17.50](#)). If there is no residential zoning within ~~500~~ [200](#) feet of the property under consideration, the applicant is exempt from neighbor communication summary requirements.

27-18.50 Application Filing

- 27-18.50-A.** Owner-initiated applications for comprehensive plan land use map amendments and zoning map amendments must be filed with the community development director.
- 27-18.50-B.** Owner-initiated applications for zoning map amendments may be proposed with or without conditions. Conditions may include:
 1. Written conditions;
 2. Site plans, architectural renderings, elevations, photographs, or other graphic representations of the proposed use/development; or
 3. Any combination of written conditions and graphic representations.
- 27-18.50-C.** Any site plan filed as a proposed condition must be prepared, signed and sealed by a state-licensed architect, landscape architect or engineer.

¹²⁰ This is new—a proposed alternative to the currently required pre-submittal community meeting. Exempt radius threshold increased from 200 to 500 feet after review of module 2.

27-18.60 Public Hearing Notices¹²¹**27-18.60-A. Published Notice**

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the mayor and city council, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing. In the case of proposed amendments initiated by a party other than the city, the notice must also identify the location of the subject property and the property's existing and proposed zoning classification.

27-18.60-B. Written (Mailed) Notice

Written notice is required for all proposed amendments initiated by a party other than the city. The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the date of the planning commission public hearing and not more than 45 days before the date of the city council public hearing. Written notices must indicate the nature of the proposed amendment and the date, time, place and purpose of the public hearing.

27-18.60-C. Posted Notice

For all proposed amendments initiated by a party other than the city, a public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by the mayor and city council. This notice sign must indicate the date, time, place and purpose of the public hearing.

27-18.60-D. Special Requirements for Drug Treatment and Dependency Facilities

When a proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, all published, written and posted notices of the public hearing to be held by the mayor and city council must include a prominent statement that the proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice must be at least 6-column inches in size and may not be located in the classified advertising section of the newspaper.

¹²¹ The draft ordinance's public hearing notice provisions were originally revised to require only those forms of notice that are required by the Georgia *Zoning Procedures Law*. As a result of public input, the notice requirements in this draft have been changed back to require the same notice as required under today's ordinance, including mailed notice to all property owners within 500 feet (which is not required under state law).

27-18.70 Community Council Meeting and Recommendation¹²²

The community council must consider proposed amendments in a public meeting and act by simple majority vote to recommend that the proposed amendment be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-18.100](#). The community council's recommendation must be transmitted to the planning commission. Failure of the community council to make a recommendation in a timely manner does not constitute grounds for postponement, deferral or denial of any proposed amendment by the planning commission or by the mayor and city council.

27-18.80 Planning Commission Public Hearing and Recommendation¹²³

The planning commission must hold a public hearing on all proposed amendments. Following the close of the hearing, the planning commission must act by simple majority vote to recommend that the proposed amendment be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-18.100](#). The planning commission's recommendation must be transmitted to the mayor and city council.

27-18.90 City Council Public Hearing and Decision

- 27-18.90-A.** Upon receipt of recommendations from the planning commission, the mayor and city council must hold a public hearing on proposed amendments. Following the close of the public hearing, the mayor and city council must act by simple majority vote to approve the proposed amendment, approve the proposed amendment with conditions or deny the proposed amendment based on the applicable review and approval criteria of Sec. [27-18.100](#). The mayor and city council are also authorized to defer action on the proposed amendment or allow the applicant to withdraw the proposed amendment without prejudice.
- 27-18.90-B.** When a proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the mayor and city council public hearing must be held at least 6 months before and not more than 9 months before the date of final action on the application.

27-18.100 Review and Approval Criteria

27-18.100-A. Comprehensive Plan Land Use Map

The following review and approval criteria must be used in reviewing and taking action on all comprehensive plan land use map amendments:

1. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;

¹²² This draft proposes elimination of community council review as part of the SLUP approval process, which will undoubtedly be a topic of discussion during reviews. During such discussions consideration should be given to whether community council review should be retained for amendments.

¹²³ Section 2-88(f) of the municipal code currently imposes narrower limits on the actions of the planning commission in making recommendations to city council. Section 2-88(g) currently allows the planning commission to table matters after the close of the public hearing. These sections will need to be revised to ensure consistency with this revised language.

2. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;
3. Whether the proposed land use change will result in uses that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
4. Whether the amendment is consistent with the written policies in the comprehensive plan text;
5. Whether there are environmental impacts or consequences resulting from the proposed change;
6. Whether there are impacts on properties in an adjoining governmental jurisdiction in cases of proposed changes near city boundary lines;
7. Whether there are other existing or changing conditions affecting the use and development of the affected land areas that support either approval or denial of the proposed land use change; and
8. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

27-18.100-B. Zoning Map Amendments

The following review and approval criteria must be used in reviewing and taking action on all zoning map amendments:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;
2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
5. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;
6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and
7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

27-18.100-C. Zoning Ordinance Text Amendments

The following review and approval criteria must be used in reviewing and taking action on all zoning ordinance text amendments:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan; and
2. Whether the proposed zoning ordinance text amendment corrects an error or inconsistency in the zoning ordinance, meets the challenge of a changing condition or is necessary to implement established policy.

27-18.110 Concurrent Variances¹²⁴

27-18.110-A. The mayor and city council may consider and approve, approve with conditions, or deny variances that would otherwise require approval under [Article 21](#) simultaneously (i.e., concurrent variance) with an amendment application. In such cases, the planning commission must make a recommendation on the concurrent variance request in addition to the companion amendment application. The planning commission must make their recommendation and the mayor and city council must take action on any concurrent variance in a separate motion after acting on the companion amendment application.

27-18.110-B. Any application for a variance that is not processed simultaneously with an amendment application must be processed as a separate variance request in accordance with the procedures of [Article 21](#).

27-18.110-C. In taking action on concurrent variance requests, the mayor and city council must apply the variance review and approval criteria of Sec. [27-21.70](#). The planning commission's review must also be based on the variance review and approval criteria of Sec. [27-21.70](#).

27-18.110-D. Any person aggrieved by a final concurrent variance decision of the mayor and city council, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the mayor and city council renders its final decision on the variance. Service upon the city must be as provided by law.¹²⁵

27-18.120 Successive Applications

An application for a comprehensive plan land use map amendment, zoning map amendment or a major amendment to one or more conditions attached to previously approved zoning map amendments affecting all or a portion of the same property may not be submitted more than once every 24 months measured from the date of final action by the mayor and city council. The mayor and city council are authorized to waive or reduce this 24-month time interval by resolution, except that the time interval between the date of action to deny or the date that the application is withdrawn with prejudice and the date of filing of any subsequent amendment affecting the same property may not be less than 6 months.¹²⁶

¹²⁴ This is entirely new. The zoning ordinance currently does not allow "concurrent variances."

¹²⁵ This appeal provision has been added in response to sounding board/public comments on module 2.

¹²⁶ The six-month waiting period is the same as the existing ordinance, but this text clarifies that it extends from the date of denial (or withdrawal) to the date of application filing, which may not be the current interpretation.

27-18.130 Amending Conditions of Approval**27-18.130-A. Major Changes**

1. Without limiting the meaning of the phrase, modification of any of the following conditions, if attached to an approved amendment, constitute a “major change” for purposes of interpreting this section:
 - a. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
 - b. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
 - c. Any decrease in the minimum size of residential units;
 - d. Any change in any buffer requirement;
 - e. Any increase in building or structure height; or
 - f. Any change in the proportion of floor space devoted to different authorized uses.
2. Any request for major changes to conditions attached to approved amendments must be processed as a new amendment application in accordance with the procedures of this article, including the requirement for fees, notices and hearings.

27-18.130-B. Minor Changes

1. Modification of conditions attached to an approved amendment that are not classified as a major change pursuant to Sec. [27-18.130-A.1](#), constitute a “minor change” for purposes of interpreting this section.
2. The community development director is authorized to approve minor changes to conditions attached to approved amendments.
3. Any request for minor change of conditions must be made in writing to the community development director. If an approved site plan exists, the request for minor change must be accompanied by copies of the revised site plan.

Article 19 Special Land Use Permits

27-19.10 Applicability

The procedures of this article apply to all special land use permits (also known as “SLUPs”) required under this zoning ordinance.

27-19.20 Authority to File

Applications for special land use permit approval may be filed by the owner of the subject property or the property owner’s authorized agent.

27-19.30 Pre-application Conference

Pre-application conferences with staff are required for all special land use permits (see the pre-application provisions of Sec. [27-17.50](#)).

27-19.40 Neighbor Communications Summary¹²⁷

Neighbor communication summaries are required for all special land use permits (see the neighbor communication summary provisions of Sec. [27-17.50](#)). If there is no residential zoning within [500](#) ~~200~~ feet of the property under consideration the applicant is exempt from neighbor communication summary requirements.

27-19.50 Application Filing

Special land use permit applications must be filed with the community development director.

27-19.60 Public Hearing Notices¹²⁸

27-19.60-A. Published Notice

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the mayor and city council, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing; the location of the subject property; and the property’s existing and proposed zoning and use.

27-19.60-B. Written (Mailed) Notice

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the date of the planning commission public hearing and not more than 45 days before the date of the city council public

¹²⁷ This is new—a proposed alternative to the currently required pre-submittal community meeting.

¹²⁸ The draft ordinance’s public hearing notice provisions were originally revised to require only those forms of notice that are required by the Georgia *Zoning Procedures Law*. As a result of public input, the notice requirements in this draft have been changed back to require the same notice as required under today’s ordinance, including mailed notice to all property owners within 500 feet (which is not required under state law).

hearing. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

27-19.60-C. Posted Notice

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by the mayor and city council. This notice sign must indicate the date, time, place and purpose of the public hearing.

27-19.60-D. Special Requirements for Drug Treatment and Dependency Facilities

When a proposed special land use permit relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, all published and posted notices of the public hearing to be held by the mayor and city council must include a prominent statement that the proposed special land use permit relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice must be at least 6-column inches in size and may not be located in the classified advertising section of the newspaper.

27-19.70 Planning Commission Public Hearing and Recommendation¹²⁹

The planning commission must hold a public hearing on the special land use permit application. Following the close of the hearing, the planning commission must act by simple majority vote to recommend that the special land use permit be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-19.90](#). The planning commission's recommendation must be transmitted to the city council.¹³⁰

27-19.80 City Council Public Hearing and Decision

27-19.80-A. Upon receipt of recommendations from the planning commission, the mayor and city council must hold a public hearing on the special land use permit application. Following the close of the public hearing, the mayor and city council must act by simple majority vote to approve the special land use permit, approve the special land use permit with conditions or deny the special land use permit based on the applicable review and approval criteria of Sec. [27-19.90](#). The mayor and city council are also authorized to defer action on the special land use permit or allow the applicant to withdraw the special land use permit without prejudice.¹³¹

27-19.80-B. When a proposed special land use permit relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment

¹²⁹ This draft proposes elimination of community council review as part of SLUP applications.

¹³⁰ Section 2-88(f) of the municipal code currently imposes narrower limits on the actions of the planning commission in making recommendations to city council. That municipal code section may need to be revised to ensure consistency with this revised language.

¹³¹ The current ordinance requires that the city council specify a time duration on all approved SLUPs...at the time of approval. This provision has not been carried over, which means that no limitation would apply unless a time limit is expressly imposed as a condition of approval.

of drug dependency, the mayor and city council public hearing must be held at least 6 months before and not more than 9 months before the date of final action on the application.

27-19.90 Review and Approval Criteria¹³²

The following review and approval criteria must be used in reviewing and taking action on all special land use permit applications:

- 27-19.90-A.** Whether the proposed use is consistent with the policies of the comprehensive plan;
- 27-19.90-B.** Whether the proposed use complies with the requirements of this zoning ordinance;
- 27-19.90-C.** Whether the proposed site provides adequate land area for the proposed use, including provision of all required open space, off-street parking and all other applicable requirements of the subject zoning district;
- 27-19.90-D.** Whether the proposed use is compatible with adjacent properties and land uses, including consideration of:
 - 1. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration generated by the proposed use;
 - 2. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
 - 3. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;
 - 4. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the character of vehicles or the volume of traffic generated by the proposed use;
 - 5. Whether the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings; and
 - 6. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;
- 27-19.90-E.** Whether public services, public facilities and utilities—including motorized and nonmotorized transportation facilities—are adequate to serve the proposed use;
~~Whether motorized and nonmotorized transportation facilities the public street on which the use is proposed to be located and whether or not there is sufficient traffic carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;~~
- 27-19.90-F.** Whether adequate means of ingress and egress are proposed, with particular reference to nonmotorized and motorized traffic safety and convenience, traffic flow and control and emergency vehicle access;

¹³² Substantial editing/updating.

- 27-19.90-G.** Whether adequate provision has been made for refuse and service areas; [and](#)
~~Whether the length of time for which the special land use permit is granted should be limited in duration; and~~
- 27-19.90-H.** Whether the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

27-19.100 Concurrent Variances¹³³

- 27-19.100-A.** The mayor and city council may consider and approve, approve with conditions, or deny variances that would otherwise require approval under [Article 21](#) simultaneously (i.e., concurrent variance) with a special land use permit application. In such cases, the planning commission must make a recommendation on the concurrent variance request in addition to the companion special land use permit application. The planning commission must make their recommendation and the mayor and city council must take action on any concurrent variance in a separate motion after acting on the companion special land use permit application.
- 27-19.100-B.** Any application for a variance that is not processed simultaneously with a special land use permit application must be processed as a separate variance request in accordance with the procedures of [Article 21](#).
- 27-19.100-C.** In taking action on concurrent variance requests, the mayor and city council must apply the variance review and approval criteria of Sec. [27-21.70](#). The planning commission's review must also be based on the variance review and approval criteria of Sec. [27-21.70](#).

27-19.110 Successive Applications

If a special land use permit application is denied, an application for a special land use permit affecting all or a portion of the same property may not be resubmitted for 24 months from the date of the denial. The mayor and city council are authorized to waive or reduce this 24-month time interval by resolution, except that the time interval between the date of action to deny the application or the date that the application is withdrawn with prejudice and the date of filing of a subsequent special land use permit application affecting the same property may not be less than 6 months.¹³⁴

27-19.120 Transfer of Special Land Use Permits¹³⁵

Approved special land use permits, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

¹³³ This is entirely new. The zoning ordinance currently does not allow "concurrent variances."

¹³⁴ The six-month waiting period is the same as the existing ordinance, but this text clarifies that it extends from the date of denial (or withdrawal) to the date of application filing, which may not be the current interpretation.

¹³⁵ This is a change. The current ordinance states that approvals are granted to persons, corporations or other legal entities and allows transfers to others only after application to the community development director.

27-19.130 Amending Conditions of Approval

A request for changes in conditions of approval attached to an approved special land use permit must be processed as a new special land use permit application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.

Article 20 Design Review¹³⁶

27-20.10 Applicability

The procedures of this article apply whenever design review is expressly required by this zoning ordinance.

27-20.20 Authority to File

Applications for design review may be filed by the owner of the subject property or the property owner's authorized agent.

27-20.30 Application Filing

Design review applications must be filed with the community development director.

27-20.40 Meeting Notice

The design review advisory committee meets as new business requires. As such, their meetings are special-called meetings. Public notice of meetings must be provided at least 24 hours in advance by posting notice within city hall and on the city's official website. Courtesy notice may also be provided by other means.

27-20.50 Design Review Advisory Committee Meeting and Recommendation

The design review advisory committee must consider proposed design review applications in a public meeting and within 14 days of receipt of a complete application act by simple majority vote to recommend that the application be approved, approved with conditions or denied based on the plan's compliance with all applicable regulations¹³⁷. If no recommendation is received within 14 days, the community development director is authorized to proceed without a recommendation.

¹³⁶ This is a new procedure, intended to formalize existing practice.

¹³⁷ Currently, this would mean compliance with applicable Dunwoody Village overlay district regulations.

Article 21 Variances

27-21.10 Applicability

Except as expressly authorized under the special exception procedures of [Article 22](#) or the administrative permit procedures of [Article 23](#), all variances to strict compliance with the regulations of this zoning ordinance require review and approval by the zoning board of appeals in accordance with the variance procedures of this article.

27-21.20 Prohibited Variances

The variance procedures of this zoning ordinance may not be used to:

- 27-21.20-A.** Allow a structure or use not authorized in the subject zoning district or a residential density of development that is not authorized within the subject district;
- 27-21.20-B.** Allow an increase in maximum building height;
- 27-21.20-C.** Waive, vary, modify or otherwise override a site plan or condition of approval attached to an amendment, special land use permit or other development approval under this zoning ordinance;¹³⁸
~~Decrease the applicable development standard that applies to off-premises signs by 30% or more or to grant more than 2 variances for a specific parcel of property for an off-premises sign during a 5-year period;~~
- 27-21.20-D.** Reduce, waive or modify in any manner the minimum lot area established for any use permitted by special land use permit or by special exception;
- 27-21.20-E.** Permit the expansion or enlargement of any nonconforming use;¹³⁹
- 27-21.20-F.** Permit the reestablishment of any nonconforming use that has been abandoned or lost its nonconforming rights; or
- 27-21.20-G.** Vary the home occupation regulations.¹⁴⁰

27-21.30 Authority to File

Applications for approval of variances may be filed by the owner of the subject property or the property owner's authorized agent.

27-21.40 Application Filing

Variance applications must be filed with the community development director.

¹³⁸ This provision has been rewritten to apply more broadly; currently applies only to rezoning and special land use permits.

¹³⁹ Propose elimination of the following prohibited variance: "Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the community development director."

¹⁴⁰ This provision currently prohibits variances of the "customer contact" provisions.

27-21.50 Public Hearing Notices¹⁴¹**27-21.50-A. Published Notice**

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the board of appeals, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing.

27-21.50-B. Written (Mailed) Notice

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the public hearing to be held by the board of appeals. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

27-21.50-C. Posted Notice

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by board of appeals. This notice sign must indicate the date, time, place and purpose of the public hearing.

27-21.60 Zoning Board of Appeals Public Hearing and Decision

27-21.60-A. The zoning board of appeals must hold a public hearing to consider all variance applications.

27-21.60-B. Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must act by simple majority vote of board members present and voting to approve the variance, approve the variance with conditions or deny the requested variance. The zoning board of appeals is also authorized to defer action on the variance or allow the applicant to withdraw the variance without prejudice. The board's final decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing.

27-21.70 Review and Approval Criteria

27-21.70-A. The zoning board of appeals may authorize variances from the provisions of this zoning ordinance only after making all of the following findings:

1. The grant of the variance will not be ~~materially~~ detrimental to the public health, safety or welfare or injurious to property or improvements ~~in the zoning district in which the subject property is located;~~

¹⁴¹ Variances are not covered by the *Georgia Zoning Procedures Law* and there are no specific state law requirements for notification. For consistency and "reasonableness," this draft proposes that public hearings on variances be noticed in the same way as amendments and special land use permits, although the written notice timeframe has been changed from 30 days to 15 days before the hearing (for general consistency).

2. The variance request is based on conditions that (1) are unique to the subject property (2) are not generally applicable to other properties in the same zoning district and (3) were not created by the owner or applicant;
 3. ~~By reason~~ Because of the particular conditions, exceptional narrowness, shallowness, or shape, size, orientation or of a specific lot, or by reason of exceptional topographic conditions, ~~which were not created by the owner or applicant,~~ the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
 4. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties;
 5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue ~~and unnecessary~~ hardship or practical difficulty, as distinguished from a mere inconvenience; and
 6. The requested variance would be consistent with the spirit and purpose of this ~~chapter zoning ordinance~~ and the ~~city~~ comprehensive plan ~~text~~.
- 27-21.70-B.** The zoning board of appeals may authorize variances from the provisions of the noise ordinance only after making all of the following findings:
1. Because of the existence of exceptional conditions that were not created by the owner or applicant, the strict application of the noise ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
 2. The requested variance does not go beyond the minimum necessary to afford relief, and the applicant has exhausted the best practical noise control measures, such as those promulgated by INCE, without being able to conform to the noise levels established in the noise ordinance;
 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;
 4. The literal interpretation and strict application of the applicable provisions or requirements of the noise ordinance would cause undue and unnecessary hardship; and
 5. The requested variance would be consistent with the purposes of the noise ordinance and would not allow noise to exceed:
 - a. Ten dB(A) above what is allowed by the noise ordinance during the hours of 7:00 a.m. to 10:00 p.m.; and
 - b. Five dB(A) above what is allowed by the noise ordinance during the hours of 10:00 p.m. to 7:00 a.m.

27-21.80 Successive Applications

If a variance application is denied, an application to vary the same zoning ordinance provision for the same portion of the subject property may not be resubmitted for 24 months from the date of the denial. The zoning board of appeals is authorized to waive or reduce this 24-month time interval, provided that the time interval between the date of action to deny the application or the date that the application is withdrawn with prejudice and the date of filing of a subsequent variance application affecting the same property may not be less than 6 months.

27-21.90 Appeals

- 27-21.90-A.** Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.
- 27-21.90-B.** When a petition is for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

27-21.100 Transfer of Variances

Approved variances, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

27-21.110 Amending Conditions of Approval

A request for changes in conditions of approval attached to an approved variance must be processed as a new variance application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.

Article 22 Special Exceptions¹⁴²

27-22.10 Applicability

The zoning board of appeals is authorized to approve the following as special exceptions in accordance with the procedures of this article:

- 27-22.10-A.** Any use or activity expressly authorized to be approved as a special exception pursuant to the provisions of this zoning ordinance;
- 27-22.10-B.** Reduction of minimum off-street parking and loading ratios by more than allowed as an administrative permit.

27-22.20 Authority to File

Applications for approval of special exceptions may be filed by the owner of the subject property or the property owner's authorized agent.

27-22.30 Application Filing

Special exception applications must be filed with the community development director.

27-22.30-A. Published Notice

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the board of appeals, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing.

27-22.30-B. Written (Mailed) Notice

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the public hearing to be held by the board of appeals. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

27-22.30-C. Posted Notice

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by board of appeals. This notice sign must indicate the date, time, place and purpose of the public hearing.

27-22.40 Zoning Board of Appeals Public Hearing and Decision

- 27-22.40-A.** The zoning board of appeals must hold a public hearing to consider all special exception applications.

¹⁴² [This article was added after the initial review of module 2. It generally tracks the existing procedure but has not been reviewed.](#)

- 27-22.40-B.** Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must act by simple majority vote of board members present and voting to approve the special exception, approve the special exception with conditions or deny the requested special exception. The zoning board of appeals is also authorized to defer action on the special exception or allow the applicant to withdraw the variance without prejudice. The board's final decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing.
- 27-22.40-C.** The zoning board of appeals decision to approve or deny must be based on the approval criteria of Sec. [27-22.50](#).

27-22.50 Review and Approval Criteria¹⁴³

27-22.50-A. Parking and Loading Reductions

The zoning board or appeals may waive or reduce the required number of parking spaces or the required number of loading spaces in any district upon an expressed finding that:

1. The character of the use makes the full provision of parking or loading spaces unnecessary;
2. Alternative transportation or transit options exist that make the full provision of parking or loading spaces unnecessary; or
3. The provision of the full number of parking or loading spaces would have a deleterious effect on a historic building, site, district or archaeological resource.

27-22.50-B. Other Authorized Special Exceptions

Special exceptions for matters other than parking or loading space reductions may be approved by the zoning board of appeals only when the zoning board of appeals determines that any specific approval criteria associated with the authorized special exception and the following general approval criteria have been met:

1. The grant of the special exception will not be detrimental to the public health, safety or welfare of the public or injurious to the property or improvements;
2. The requested special exception does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; and
3. The requested special exception is consistent with all relevant purpose and intent statements of this zoning ordinance.

¹⁴³ These criteria are entirely new. The current ordinance does not clearly indicate the approval criteria or required findings for an administrative variance or an administrative special exception. These proposed criteria are far less stringent than the hardship findings needed for variances.

27-22.60 Appeals

27-22.60-A. Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.

27-22.60-B. When a petition is for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

27-22.70 Transfer of Special Exceptions

Approved special exceptions, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

27-22.80 Amending Conditions of Approval

A request for changes in conditions of approval attached to an approved special exception must be processed as a new special exception application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.

Article 23 Administrative Permits¹⁴⁴

27-23.10 Applicability

The community development director is authorized to approve the following as administrative permits in accordance with the procedures of this article:

- 27-23.10-A.** Any use or activity expressly authorized to be approved by administrative permit pursuant to the provisions of this zoning ordinance;
- 27-23.10-B.** Reduction of minimum off-street parking and loading ratios by up to one space or 10%, whichever is greater;¹⁴⁵
- 27-23.10-C.** Reduction of minimum off-street parking ratios for any lot located within 1,000-1,500 feet of the boundary entrance of a commuter rail MARTA rapid transit station or bus rapid transit stop by up to 3 spaces or 25%, whichever is greater;¹⁴⁵
- 27-23.10-D.** Reduction of zoning district setback requirements by up to 10%;
- 27-23.10-E.** Encroachment of building additions not exceeding one story or 18 feet in height into required rear setbacks by up to 10 feet;
- 27-23.10-F.** Type B home occupations;
- 27-23.10-G.** Relatives residences;
- 27-23.10-H.** Antennas that project more than 10 feet above the height of the structure to which they are attached;
- 27-23.10-I.** Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to 10%;
- 27-23.10-J.** Increase in the maximum front door threshold height allowed by Sec. 27-9.170;
- 27-23.10-K.** Increase in the maximum retaining wall height, as allowed by Sec. 27-15.40;
- 27-23.10-L.** Reduction of the minimum retaining wall setback requirement, as allowed by Sec. 27-15.40;
- 27-23.10-M.** Reduction of the minimum wing wall side setback requirement, as allowed by Sec. 27-15.50;

27-23.20 Authority to File

Applications for approval of administrative permits may be filed by the owner of the subject property or the property owner's authorized agent.

27-23.30 Application Filing

Administrative permit applications must be filed with the community development director.

¹⁴⁴ When introduced as part of module 2, the article was referred to as "administrative adjustments." It has since been revised and now generally tracks the existing administrative permit procedure.

¹⁴⁵ Currently limited to 10% and handled as an administrative "special exception."

27-23.40 Posted Notice

A sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the community development director's decision on the administrative permit request.¹⁴⁶ This required notice must indicate the earliest date that a decision on the administrative permit will be made and indicate the nature of the request and a contact where additional information can be obtained.

27-23.50 Community Development Director's Decision

- 27-23.50-A.** The community development director must review each application for an administrative permit and act to approve the application, approve the application with conditions, deny the application or refer the application to the zoning board of appeals for consideration as a special exception (if related to parking) or a variance.
- 27-23.50-B.** The community development director may not take final action to approve or deny an administrative permit application until at least 15 days after the date that posted notice was provided. All decisions must be made in writing within 30 days of the date that the application was filed.
- 27-23.50-C.** The community development director's decision to approve or deny must be based on the approval criteria of Sec. [27-23.60](#).

27-23.60 Review and Approval Criteria¹⁴⁷

Administrative permits may be approved by the community development director only when the community development director determines that any specific approval criteria associated with the authorized administrative permit and the following general approval criteria have been met:

- 27-23.60-A.** The grant of the administrative permit will not be detrimental to the public health, safety or welfare of the public or injurious to the property or improvements;
- 27-23.60-B.** The requested administrative permit does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; and
- 27-23.60-C.** The requested administrative permit is consistent with all relevant purpose and intent statements of this zoning ordinance.

27-23.70 Appeals

Final decisions of the community development director may be appealed by any person aggrieved by the decision in accordance with the appeal procedures of [Article 24](#).

27-23.80 Transfer of Administrative Permit

Approved administrative permits, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

¹⁴⁶ The existing ordinance states that the applicant must post the sign. Neither this provision nor the sign size specifications have been included in this draft.

¹⁴⁷ These criteria are entirely new. The current ordinance does not clearly indicate the approval criteria or required findings for an administrative variance or an administrative special exception. These proposed criteria are far less stringent than the hardship findings needed for variances.

27-23.90 Amending Conditions of Approval

A request for changes in conditions of approval attached to an approved administrative permit must be processed as a new administrative permit application in accordance with the procedures of this article.

27-23.100 Reporting

The community development director must maintain records of all administrative permits that have been approved or denied and provide a summary of such actions to the city council and planning commission at least 4 times per calendar year.

Article 24 Appeals of Administrative Decisions

27-24.10 Applicability

The procedures of this article apply to appeals of administrative decisions.

27-24.20 Authority to File

Appeals of administrative decisions may be filed by any person aggrieved by, or by any city official, department, board or agency affected by any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this zoning ordinance. A person may be considered aggrieved for purposes of this subsection only if they are the owner of the property that is the subject of the administrative official's decision or they are a person with a substantial interest in the administrative official's decision who is in danger of suffering special damage or injury not common to all property owners similarly situated, as determined by the zoning board of appeals.

27-24.30 Application Filing

Applications for appeals of administrative decisions must be filed with the community development director within 15 days of the date of the order, requirement or decision being appealed. Failure to act is not an order, requirement or decision within the meaning of this article. The appeal must be scheduled to be heard at the next regularly scheduled board of appeals meeting for which required hearing notice can be provided, unless the applicant agrees to a later hearing date.

27-24.40 Effect of Appeal

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the zoning board of appeals, after the appeal is filed, that, because of facts stated in the certification, a stay would cause imminent peril to life or property. In such a case, proceedings may be stayed only by a restraining order granted by the superior court on notice to the official whose decision is being appealed and on due cause shown.

27-24.50 Record of Decision

Upon receipt of a complete application of appeal, the community development director or other administrative official whose decision is being appealed must transmit to the zoning board of appeals all papers constituting the record upon which the action appealed is taken.

27-24.60 Hearing Notice¹⁴⁸

Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least 5 days before the date of the zoning board of appeals hearing.

27-24.70 Hearing and Decision

27-24.70-A. The zoning board of appeals must hold a hearing to consider all appeals of administrative decisions.

¹⁴⁸ These provisions have been revised to eliminate the requirement for a "public" hearing and to require only mailed notice to the person filing the appeal. This would not necessarily prevent the city from providing additional notice or from accepting public testimony at the hearing.

- 27-24.70-B.** Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must make a decision. The decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing. Final action on an appeal requires a simple majority vote of the board of appeals members present and voting.
- 27-24.70-C.** In exercising its powers, the zoning board of appeal may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. To that end the board has all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.

27-24.80 Review and Approval Criteria

An appeal shall be sustained only upon a finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact or that the administrative official acted in an arbitrary manner.

27-24.90 Appeals

- 27-24.90-A.** Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.
- 27-24.90-B.** When a petition is for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

Article 25 Development Permits

27-25.10 Applicability

Development permits are required in order to ensure compliance with all provisions of this zoning ordinance and all other city ordinances and regulations. Unless otherwise expressly exempted under this zoning ordinance, a development permit must be obtained for any proposed use of land or buildings before any building permit is issued or any improvement, grading or alteration of land or buildings commences.

27-25.20 Applications

All applications for development permits must be filed with the community development director.

27-25.30 Determination of Compliance and Issuance of Permits

No development permits or building permits may be issued until the community development director determines the application complies with all applicable requirements of this zoning ordinance, including any conditions of imposed by an authorized decision-making body as part of an approval (e.g., conditional zoning, special land use permit, variance).

27-25.40 Permit Expiration

A development permit is valid for 2 years from its date of issuance, subject to the following provisions:

- 27-25.40-A.** If the work authorized in any development permit has not begun within 180¹⁴⁹ days from the date of permit issuance, the permit expires and has no further effect.
- 27-25.40-B.** If the work described in any development permit has not been substantially completed within 2 years of the date of permit issuance, the permit expires and has no further effect.
- 27-25.40-C.** Written notice of the permit expiration must be given to the persons affected, together with notice that further work as described in the expired permit may not proceed until a new development permit has been obtained.

¹⁴⁹ Currently 90 days.

PART VI: ADMINISTRATION AND ENFORCEMENT

Article 26	Review and Decision-making Bodies.....	26-1
27-26.10	Planning Commission	26-1
27-26.20	Zoning Board of Appeals	26-1
27-26.30	Community Council	26-1
27-26.40	Community Development Director	26-1
27-26.50	Design Review Advisory Committee.....	26-2
Article 27	Inspections.....	27-1
27-27.10	Right of Entry	27-1
27-27.20	Warrants	27-1
Article 28	Enforcement and Penalties.....	28-1
27-28.10	Responsibility for Enforcement	28-1
27-28.20	Violations	28-1
27-28.30	Continuing Violations	28-1
27-28.40	Remedies and Enforcement Powers	28-1
27-28.50	Continuation of Previous Enforcement Actions	28-3
27-28.60	Remedies Cumulative.....	28-3
27-28.70	Persons Subject to Penalties	28-3
27-28.80	Enforcement Procedures.....	28-4
Article 29	Nonconformities.....	29-1
27-29.10	General.....	29-1
27-29.20	Nonconforming Lots.....	29-2
27-29.30	Nonconforming Structures	29-3
27-29.40	Nonconforming Uses.....	29-4
27-29.50	Nonconforming Development Features	29-6

Article 26 Review and Decision-making Bodies

27-26.10 Planning Commission

A seven-member planning commission is established, as authorized in Chapter 2 of the municipal code. The planning commission has those powers and duties expressly identified in this zoning ordinance and in Chapter 2. ¹⁵⁰ [If the regulations of this zoning ordinance conflict with those in Chapter 2, the regulations of this zoning ordinance govern.](#)

27-26.20 Zoning Board of Appeals

A seven-member zoning board of appeals is established, as authorized in Chapter 2 of the municipal code. The zoning board of appeals has those powers and duties expressly identified in this zoning ordinance and in Chapter 2. ¹⁵⁰ [If the regulations of this zoning ordinance conflict with those in Chapter 2, the regulations of this zoning ordinance govern.](#)

27-26.30 Community Council

A seven-member community council is established, as authorized in Chapter 2 of the municipal code. The community council has those powers and duties expressly identified in this zoning ordinance and in Chapter 2. ¹⁵⁰ [If the regulations of this zoning ordinance conflict with those in Chapter 2, the regulations of this zoning ordinance govern.](#)

27-26.40 Community Development Director

27-26.40-A. The community development director has those powers and duties expressly identified in this zoning ordinance. In addition, the community development director serves as secretary of the planning commission and zoning board of appeals and performs other duties assigned by the city manager.

27-26.40-B. The community development director's building inspection duties include:

1. Issuance of building permits in accordance with all provisions of this zoning ordinance and only after issuance of a development permit.
2. Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being pursued in accordance with the site plan for which a development and building permit has been issued. These inspections and reports of findings must be made within 2 working days of the date that an inspection is requested by the developer.
3. Ensuring that all construction has been completed in accordance with all applicable requirements of this zoning ordinance and the municipal code prior to allowing occupancy.

¹⁵⁰ Revisions to chapter 2 may be necessary to ensure consistency with the new zoning code. Alternatively, a provision could be added to the zoning ordinance clarifying that if there is a conflict between the zoning ordinance and chapter 2 the zoning ordinance governs, which is the opposite of what it now says.

27-26.50 Design Review Advisory Committee

- 27-26.50-A.** A seven-member design review advisory committee is established, as authorized in Chapter 2 of the municipal code. [If the regulations of this zoning ordinance conflict with those in Chapter 2, the regulations of this zoning ordinance govern.](#)
- 27-26.50-B.** Committee members are appointed for ~~2~~3-year terms.
- 27-26.50-C.** The design review advisory committee is authorized to make recommendations to the community development director, as expressly stated by individual provisions of this zoning ordinance.

Article 27 Inspections

27-27.10 Right of Entry

Upon the consent of the developer, contractor, owner, owner's agent, operator or occupants, city employees authorized by the community development director may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this zoning ordinance.

27-27.20 Warrants

The community development director, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant must authorize the community development director to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

27-27.20-A. Inspection warrants may be issued by the municipal court of the city when the issuing judge is satisfied that all of the following conditions are met:

1. The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection that includes that property or that there is probable cause for believing that there is a condition, object, activity or circumstance that legally justifies such an inspection.
2. The issuing judge determines that the issuance of the warrant is authorized by this section.

27-27.20-B. All inspection warrants must meet all of the following requirements:

1. The warrant must be attached to the affidavit required to be made in order to obtain the warrant.
2. The warrant must describe, either directly or by reference to the affidavit, the property upon which the inspection is to occur and must be sufficiently accurate to allow the executor of the warrant and the owner or possessor of the property to reasonably determine from it the property for which the warrant authorizes an inspection.
3. The warrant must indicate the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal.
4. The warrant must refer, in general terms, to the ordinance provisions sought to be enforced.

Article 28 Enforcement and Penalties¹⁵¹

27-28.10 Responsibility for Enforcement

The community development director is responsible for the interpretation, administration and enforcement of the provisions of this zoning ordinance unless otherwise expressly stated.

27-28.20 Violations

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or use any land in the city, or cause any of these actions, contrary to or in violation of any of the provisions of this zoning ordinance. Any violation of a provision of this zoning ordinance—including but not limited to all of the following—may be subject to the remedies and penalties provided for in this zoning ordinance.

- 27-28.20-A.** To use land or buildings in any way not consistent with the requirements of this zoning ordinance;
- 27-28.20-B.** To erect a building or other structure in any way not consistent with the requirements of this zoning ordinance;
- 27-28.20-C.** To engage in the use of a building or land or any other activity requiring one or more permits or approvals under this zoning ordinance without obtaining such required permits or approvals;
- 27-28.20-D.** To engage in the use of a building or land or any other activity requiring one or more permits or approvals under this zoning ordinance in any way inconsistent with any such permit or approval or any conditions imposed on the permit or approval;
- 27-28.20-E.** To violate the terms of any permit or approval granted under this zoning ordinance or any condition imposed on the permit or approval;
- 27-28.20-F.** To obscure, obstruct or destroy any notice required to be posted or otherwise given under this zoning ordinance;
- 27-28.20-G.** To violate any lawful order issued by any person or entity under this zoning ordinance; or
- 27-28.20-H.** To continue any violation after receipt of notice of a violation.

27-28.30 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the city constitutes a separate violation of this zoning ordinance.

27-28.40 Remedies and Enforcement Powers

The city has all remedies and enforcement powers allowed by law, including the following:

¹⁵¹ This article contains a more detailed explanation of violation, penalty and enforcement powers than the current ordinance, although there are no substantive changes unless expressly identified.

27-28.40-A. Withhold Permit

1. The community development director may deny or withhold permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the violation in question.
2. The community development director may deny or withhold permits, certificates or other forms of authorization on any land or structure or improvements owned by or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the property for which the permit or other approval is sought is the property in violation.

27-28.40-B. Permits Approved with Conditions

Instead of withholding or denying a permit or other authorization, the community development director may grant such authorization subject to the condition that the violation be corrected.

27-28.40-C. Revoke Permits

1. Any permit, certificate or other form of authorization required under this zoning ordinance may be revoked by the community development director when the community development director determines:
 - a. That there is departure from the plans, specifications, or conditions as required under terms of the permit,
 - b. That the development permit was procured by false representation or was issued by mistake, or
 - c. That any of the provisions of this zoning ordinance are being violated.
2. Written notice of revocation must be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued. If no persons can reasonably be served with notice, the notice must be posted in a prominent location. After delivery or posting of notice, no construction or development may proceed.

27-28.40-D. Stop Work

With or without revoking permits, the community development director may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this zoning ordinance or of a permit or other form of authorization issued under the zoning ordinance.

27-28.40-E. Revoke Plan or Other Approval

Where a violation of this zoning ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the community development director may, upon notice to the applicant and other known interested parties (including any holders of building permits affected) (a) revoke the plan or other approval or (b) condition its continuance on strict compliance with this zoning ordinance or the provision of security to ensure that construction is completed in compliance with approved plans, or such other conditions as the community development director may reasonably impose.

27-28.40-F. Injunctive Relief

The city may seek an injunction or other equitable relief in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted under the zoning ordinance.

27-28.40-G. Abatement

The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

27-28.40-H. Other Penalties, Remedies and Powers

In addition to all other actions and penalties authorized in this article, the city attorney is authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this zoning ordinance. The city may also, after due notice to the owner of the violation, issue a citation for violation of this zoning ordinance requiring the presence of the violator in municipal court.

27-28.50 Continuation of Previous Enforcement Actions

Nothing in this zoning ordinance prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous valid ordinances and laws.

27-28.60 Remedies Cumulative

The remedies and enforcement powers established in this zoning ordinance are cumulative, and the city may exercise them in any combination or order.

27-28.70 Persons Subject to Penalties

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

27-28.80 Enforcement Procedures¹⁵²

27-28.80-A. Non-Emergency Matters

In the case of violations of this zoning ordinance that do not constitute an emergency or require immediate attention, the community development director must give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner stated in this section, after which the persons receiving notice have 10 days to correct the violation before further enforcement action may be taken. Notice must be given in person, by U.S. Mail, or by posting notice on the premises. Notices of violation must state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

27-28.80-B. Emergency Matters

In the case of violations of this zoning ordinance that constitute an emergency situation as a result of public health or safety concerns or violations that will create increased problems or costs if not remedied immediately, the city may use the enforcement powers available under this zoning ordinance without prior notice, but the community development director must attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

¹⁵² These procedures are new and should be checked for consistency with current practice.

Article 29 Nonconformities

27-29.10 General

27-29.10-A. Scope

The regulations of this article govern nonconformities, which are lots, uses and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more requirements of this zoning ordinance.

27-29.10-B. Intent

Occasionally, lots, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) are made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through zoning map changes or amendments to the text of the zoning ordinance). The regulations of this article are intended to clarify the effect of this nonconforming status and avoid confusion with “illegal” buildings and uses (i.e., those established in violation of applicable zoning regulations). The regulations of this article are also intended to:

1. recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. promote maintenance, reuse and rehabilitation of existing buildings; and
3. place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

27-29.10-C. Authority to Continue

Any nonconformity that existed on the effective date specified in Sec. [27-1.40](#) or any situation that becomes nonconforming upon adoption of any amendment to this zoning ordinance may be continued in accordance with the regulations of this article unless otherwise expressly stated.

27-29.10-D. Determination of Nonconformity Status

1. The burden of proving a nonconformity was lawfully established rests entirely with the subject landowner.
2. A preponderance of evidence must be provided by the subject landowner and be sufficient to show that the nonconformity was lawfully established before adoption of the subject regulations. Evidence must also indicate that the nonconformity has been continuous and that the situation has not lost its nonconforming status. Examples of reliable evidence include: business licenses; building permits; zoning compliance permits; city/county billing records; utility billing records; assessment, tax or rent records; and directory listings.

3. The community development director is authorized to determine whether adequate proof of nonconforming status has been provided by the subject landowner.
4. Appeals of the community development director's decision on nonconforming status determinations may be appealed in accordance with the appeal procedures of [Article 24](#).

27-29.10-E. Repairs and Maintenance

1. Nonconformities must be maintained to be safe and in good repair.
2. Repairs and normal maintenance that do not increase the extent of nonconformity and that are necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this zoning ordinance.
3. Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized city official.

27-29.10-F. Change of Tenancy or Ownership

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership or management.

27-29.20 Nonconforming Lots

27-29.20-A. Description

A nonconforming lot is a lawfully created lot recorded in the office of the clerk of county superior court that does not comply with all applicable minimum lot area or lot frontage regulations of the zoning district in which the lot is located.

27-29.20-B. Use of Nonconforming Lots

1. Any nonconforming lot in a residential zoning district may be used as a building site for a single detached house.
2. In mixed-use, nonresidential and special purpose zoning districts, a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district.

27-29.20-C. Lot and Building Regulations

1. Development on nonconforming lots must comply with the lot and building regulations of the subject zoning district unless otherwise expressly stated.
2. Nonconforming lots may not be adjusted in size or shape to create nonconformity or increase the degree of nonconformity for lot area, lot frontage, setbacks or other applicable lot and building regulations. Lot area or shape adjustments that decrease the extent of nonconformity are allowed.

27-29.30 Nonconforming Structures**27-29.30-A. Description**

A nonconforming structure is any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building regulations of the zoning district in which it is located.

27-29.30-B. General

Nonconforming structures may remain, subject to the regulations of this section.

27-29.30-C. Alterations and Expansions

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building regulations, and does not increase the extent of nonconformity. A building with a nonconforming front setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards and all other applicable lot and building regulations. On the other hand, a multi-dwelling building that is nonconforming with regard to density (i.e., contains more dwelling units than allowed by the underlying zoning) may not be expanded to add additional dwelling units.

27-29.30-D. Use

A nonconforming structure may be used for any use allowed in the zoning district in which the structure is located.

27-29.30-E. Moving

A nonconforming structure may be moved in whole or in part to another location only if the movement or relocation eliminates or reduces the extent of nonconformity. A nonconforming structure may be moved to another lot only if the structure would comply with the zoning regulations that apply to that (relocation) lot.

27-29.30-F. Loss of Nonconforming Status¹⁵³**1. Intentional Damage or Destruction**

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and re-construction of the nonconforming structure is prohibited.

2. Accidental Damage or Destruction

When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner, the structure may be re-stored or repaired as long as no new nonconformities are created and that the

¹⁵³ These provisions represent a change. Currently, the ordinance does not distinguish between accidental and intentional damage. Nonconforming buildings damaged by 60% or more of their fair market value may not be replaced.

existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 2 years of the date of occurrence of the damage.

27-29.40 Nonconforming Uses

27-29.40-A. Description

A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with any applicable separation (or spacing) distance requirements (e.g., those that require one land use to be located a certain minimum distance from another land use) are also deemed nonconforming uses.¹⁵⁴

27-29.40-B. Change of Use

A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

27-29.40-C. Expansion of Use

A nonconforming use may not be expanded in any way that increases the extent of nonconformity.

27-29.40-D. Remodeling and Improvements

A building in which a nonconforming use is located may be remodeled or otherwise improved as long as the remodeling or improvements do not violate the other regulations of this zoning ordinance.

27-29.40-E. Moving¹⁵⁵

1. A nonconforming use may be moved in whole or in part to another location on the same lot only if the movement or relocation eliminates or reduces the extent of nonconformity.
2. A nonconforming use may be moved to another lot only if the use is allowed under the zoning regulations that apply to that (relocation) lot.

¹⁵⁴ Last sentence represent a clarification and is new.

¹⁵⁵ This is new.

27-29.40-F. Loss of Nonconforming Status**1. Abandonment¹⁵⁶**

- a. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of 6 months or more.
- c. A nonconforming open-air use of land is presumed abandoned when the use is discontinued for a continuous period of 3 months or more.¹⁵⁷
- d. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the community development director, that during such period the owner of the land or structure has been:
 - (1) maintaining the land and structure in accordance with all applicable municipal code requirements and did not intend to discontinue the use;
 - (2) actively and continuously marketing the land or structure for sale or lease for that particular nonconforming use; or
 - (3) engaged in other activities that affirmatively prove there was not intent to abandon.
- e. any period of discontinued use caused by government action, unintended fire or natural disaster will not be counted in calculating the length of discontinuance.

2. Change to Conforming Use

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

3. Damage or Destruction¹⁵⁸**a. Intentional Destruction**

When a building containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

b. Accidental Damage or Destruction

When a building containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the property owner

¹⁵⁶ These “abandonment” provisions are new.

¹⁵⁷ Currently 6 months.

¹⁵⁸ These provisions represent a change. Currently, the ordinance does not distinguish between accidental and intentional damage. Nonconforming uses damaged by 60% or more of the building’s fair market value may not be replaced.

or tenant, the building and use may be restored or repaired provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged building must be obtained within 2 years of the date of occurrence of such damage.

27-29.50 Nonconforming Development Features

27-29.50-A. Description

A nonconforming development feature is any aspect of a development—other than a nonconforming lot, nonconforming use, nonconforming structure or nonconforming sign—that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more regulations of this zoning ordinance. Common examples of nonconforming development features are off-street parking or loading areas that contain fewer spaces than required by current regulations and sites that do not comply with current landscaping or screening requirements.

27-29.50-B. General

Nonconforming development features may remain except as otherwise expressly stated in this zoning ordinance, but the nature and extent of nonconforming site features may not be increased except as otherwise expressly stated in this zoning ordinance.

PART VII: MEASUREMENTS, LANGUAGE AND DEFINITIONS

Article 30	Measurements.....	30-1
27-30.10	Lot Area	30-1
27-30.20	Lot Frontage	30-1
27-30.30	Density	30-1
27-30.40	Floor Area	30-1
27-30.50	Lot Coverage	30-1
27-30.60	Setbacks	30-1
27-30.70	Building Height	30-4
Article 31	Rules of Language and Interpretation.....	31-1
27-31.10	Meanings and Intent	31-1
27-31.20	Tenses and Usage	31-1
27-31.30	Conjunctions	31-1
27-31.40	Computation of Time	31-1
27-31.50	Headings and Illustrations	31-2
27-31.60	References to Other Regulations	31-2
27-31.70	Current Versions and Citations.....	31-2
27-31.80	Lists and Examples	31-2
27-31.90	Delegation of Authority.....	31-2
27-31.100	Public Officials and Agencies	31-2
Article 32	Definitions	32-1
27-32.10	Terms Defined	32-1

Article 30 Measurements

27-30.10 Lot Area

Lot area is a measure of the total ground-level surface area contained within the property lines of a lot.

27-30.20 Lot Frontage

Lot frontage is measured along the front property line adjacent to the street. On a corner lot the side having the least amount of street frontage is the front property line.

Figure 30-1: Measurement of Lot Frontage



27-30.30 Density

Density is a measure of the number of dwelling units per acre (43,560 sq. ft.) of land area.

27-30.40 Floor Area

- 27-30.40-A.** The floor area of a principal building includes the gross heated horizontal areas of the floors of a building, exclusive of open porches and garages, measured from the interior face of the exterior walls of the building.
- 27-30.40-B.** The floor area of an accessory building includes the gross horizontal areas of the floors of an accessory building, measured from the exterior faces of the exterior walls of the accessory building.

27-30.50 Lot Coverage

Lot coverage is measured as the area or percentage of a lot that is covered by buildings, structures, driveways, parking areas and other impervious surfaces.

27-30.60 Setbacks

27-30.60-A. Measurement

1. Setbacks are measured from the referenced lot line to the closest point of the building or structure.
2. Street setbacks are measured from the property line that abuts a street.

3. Side (interior) setbacks are measured from a side lot line that does not abut a street.
4. Rear setbacks are measured from the rear lot line. On double-frontage lots, street setbacks apply from both opposing property lines that abut the street. Rear setback standards do not apply.

27-30.60-B. Permitted Obstructions

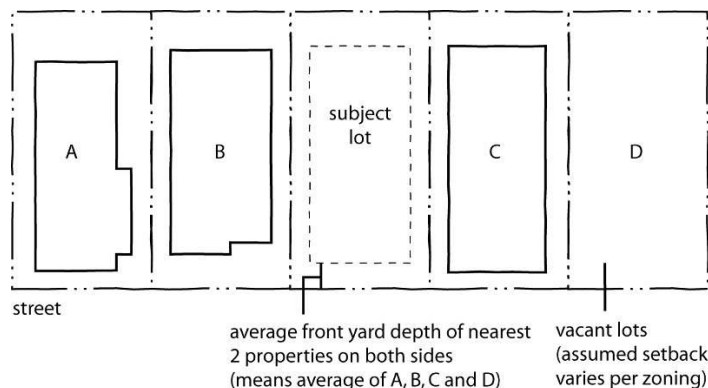
Setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. [27-30.60-D](#).

27-30.60-C. Setback Averaging¹⁵⁹**1. Applicability**

When existing buildings on one or more abutting lots are closer to the street (front or street side) property line than the otherwise required setback, additions to existing buildings or construction of new buildings on the subject lot may comply with the average street yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying with the zoning district's minimum street setback requirement. Detached houses constructed on infill lots are subject to the contextual street setback regulations of Sec. [27-9.170-B](#), which will govern in the case of conflict with the setback averaging provisions of this section.

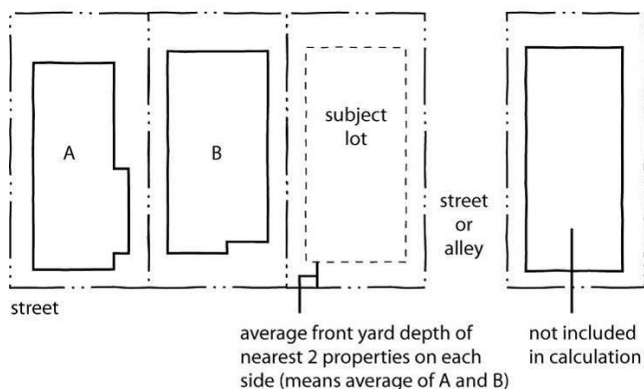
2. Calculation of "Average Setback"

- a. The average setback is based on the average (arithmetic mean) street yard depth that exists on the nearest 2 lots on either side of the subject lot
- b. If one or more of the lots that are required to be included in the averaging calculation is vacant, that vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district.

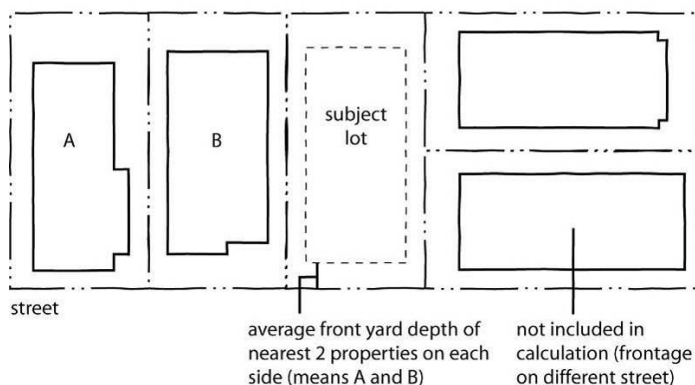


¹⁵⁹ This is a revision of the "average" setback provisions of existing Section 27-1357.

- c. Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.



- d. When the subject lot is a corner lot, the average street yard depth will be computed on the basis of the nearest 2 lots with frontage on the same street as the subject lot.



- e. When the subject lot abuts a corner lot with frontage on the same street, the average front yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.
- f. These setback averaging provisions may not be used to reduce the setback of a street-facing garage door to less than 20 feet.

27-30.60-D. Features Allowed to Encroach in Required Setbacks

Building and site features are allowed to obstruct or encroach into required setbacks to the extent indicated in the following table:

Obstruction/Projection into Required Setback	Street	Side	Rear
Accessory buildings (see also Article 10)	No	No	Yes
Air conditioning units	No	Yes	Yes
Arbors and trellises	Yes	Yes	Yes
Awnings canopies, light shelves and architecturally integrated solar shading devices projecting no more than 3 feet into the setback	Yes	Yes	Yes
Bay windows that project no more 3 feet into the setback	Yes	Yes	Yes

Obstruction/Projection into Required Setback	Street	Side	Rear
Chimneys and flues that project up to 3 feet into the setback)	Yes	Yes	Yes
Clotheslines	No	No	Yes
Decks, patios, and other features and structures less than 30 inches in height above grade	Yes	Yes	Yes
Eaves and gutters that project up to 3 feet into the setback	Yes	Yes	Yes
Electric vehicle charging stations	Yes	Yes	Yes
Fences and walls (see also Article 15)	Yes	Yes	Yes
Fire escapes that project up to 3 feet into the setback	Yes	Yes	Yes
Flagpoles and similar features	Yes	Yes	Yes
Geothermal heat pumps and geothermal heat exchange system equipment up to 4 feet in height above grade	No	Yes	Yes
Green houses and hoop houses	No	No	Yes
Insulation added to the outside of the exterior wall of an existing building	Yes	Yes	Yes
Plants and cold frames	Yes	Yes	Yes
Recreational equipment (e.g., swing sets and playground equipment)	No	No	Yes
Satellite dish antennas, not exceeding 1 meter (39.37 inches) in diameter	Yes	Yes	Yes
Satellite dish antennas, over 1 meter but not exceeding 2.4 meters (94.49 inches) in diameter	No	No	Yes
Signs (see also See Chapter 20)	Yes	Yes	Yes
Sills, belt courses, cornices, buttresses and similar architectural features that project up to 3 feet into the setback	Yes	Yes	Yes
Solar or wind energy systems, building-mounted	No	Yes	Yes
Solar or wind energy systems, ground-mounted	No	Yes	Yes
Swimming pools and tennis courts	No	No	Yes
Water collection cisterns that project no more than 3 feet into a front or side setback	Yes	Yes	Yes
Wheelchair lifts and ramps that meet federal, state and local accessibility standards	Yes	Yes	Yes

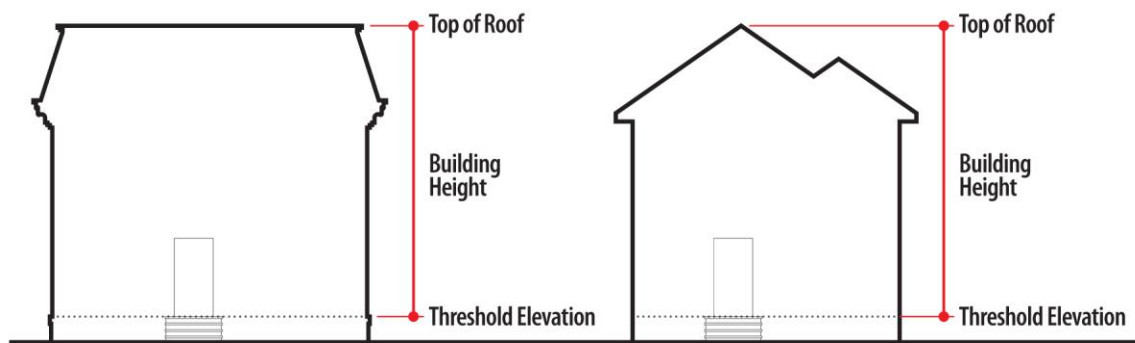
27-30.70 Building Height

27-30.70-A. Measurement

1. Detached Houses

The building height of a detached house is measured as the vertical distance from the front door threshold to the highest point of the roof.

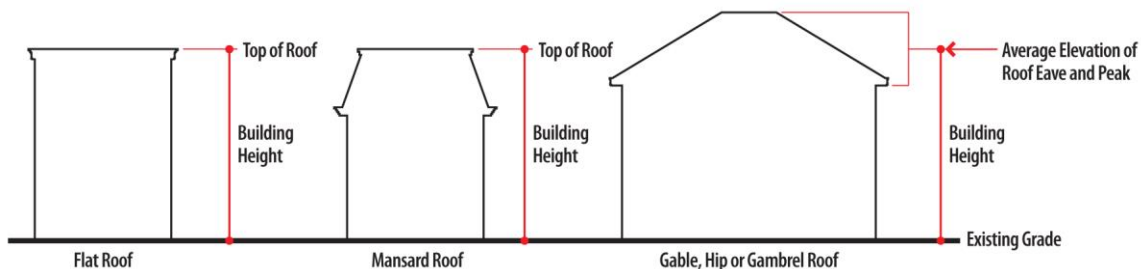
Figure 30-2: Building Measurement, Detached Houses



2. Other Buildings

For all buildings except detached houses, building height is measured as the vertical distance from finished grade along the exterior building wall to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Figure 30-3: Building Height Measurement, Other Buildings



27-30.70-B. Exceptions

1. Farm buildings and farm-related structures are not subject to building height limits when located on bona fide farms.
2. Belfries, clock towers, cupolas, domes, flag poles and spires may exceed maximum building limits, provided they are not intended for human occupancy.
3. Bulkheads, elevator and equipment penthouses, chimneys, water tanks and similar structures may exceed maximum height limits, provided they do not cover more than 25% of the total roof area of the building on which they are located.
4. Telecommunications towers and antennas are subject to their own special height limits (see Sec. 27-9.200).
5. Building-mounted solar energy systems may extend up to 3 feet above the applicable maximum zoning district height limit, provided they do not extend more than 5 feet above the roof line (see also Sec. 27-10.80-B).

Article 31 Rules of Language and Interpretation¹⁶⁰

27-31.10 Meanings and Intent

The language of the zoning ordinance must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in this zoning ordinance (See, for example, [Article 32](#)) have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined in this zoning ordinance have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

27-31.20 Tenses and Usage

- 27-31.20-A.** Words used in the singular include the plural. The reverse is also true.
- 27-31.20-B.** Words used in the present tense include the future tense. The reverse is also true.
- 27-31.20-C.** The words "must," "will," "shall" and "may not" are mandatory.
- 27-31.20-D.** The word "may" is permissive, and "should" is advisory, not mandatory or required.
- 27-31.20-E.** When used with numbers, "up to x," "not more than x" and "a maximum of x" all include "x."
- 27-31.20-F.** The word "lot" includes the word "plot."
- 27-31.20-G.** The word "used" is deemed to also include "designed, intended, or arranged to be used."
- 27-31.20-H.** The word "erected" is deemed to also include "constructed," "reconstructed," "altered," "placed," "relocated" or "removed."
- 27-31.20-I.** The terms "land use" and "use of land" are deemed to also include "building use" and "use of building."

27-31.30 Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- 27-31.30-A.** "And" indicates that all connected items or provisions apply; and
- 27-31.30-B.** "Or" indicates that the connected items or provisions may apply singularly or in combination.

27-31.40 Computation of Time

- 27-31.40-A.** References to "days" are to calendar days unless otherwise expressly stated. References to "business days" are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by the city.

¹⁶⁰ The regulations of this article are mostly new; they expand upon the rules of interpretation found in Sec. 27-22 of the current zoning ordinance.

27-31.40-B. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the city, that day is excluded.

27-31.40-C. A day concludes at the close of business of city hall, and any materials received after that time will be considered to have been received the following day.

27-31.50 Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this zoning ordinance. In case of any difference of meaning or implication between the text of this zoning ordinance and any heading, drawing, table, figure, or illustration, the text governs.

27-31.60 References to Other Regulations

All references in this zoning ordinance to other city, state or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of state or federal regulations.

27-31.70 Current Versions and Citations

All references to other city, state or federal regulations in this zoning ordinance refer to the most current version and citation for those regulations, unless otherwise expressly indicated.

27-31.80 Lists and Examples

Lists of items or examples that use “including,” “such as” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

27-31.90 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that department head, officer or employee is authorized to delegate the assigned responsibility to other individuals over whom they have authority.

27-31.100 Public Officials and Agencies

All employees, public officials, bodies and agencies to which references are made are those of the City of Dunwoody unless otherwise expressly stated.

Article 32 Definitions¹⁶¹

27-32.10 Terms Defined

The words and terms expressly defined in this article have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

27-32.10-A. Terms Beginning with "A"

Accessory building means a building detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use. [See also the accessory use regulations of Article 10.](#)

~~Accessory dwelling unit means a separate and complete dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.~~

Accessory structure means a structure detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use. [See also the accessory use regulations of Article 10.](#)

Accessory use means a use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use. [See also the accessory use regulations of Article 10.](#)

Agent means a person duly authorized to act on behalf of the subject property owner.

Amateur radio service antenna structure means a tower and antenna for radio transmission and reception that is maintained by a licensed amateur radio operator as an accessory structure.

American Main Street Commercial style means buildings designed in the one-part commercial block and two-part commercial block styles.

Amplified sound reproduction device means any device capable of producing, reproducing or emitting sounds by means of any loudspeaker or amplifier.

Animal, Companion means animals that are commonly kept by persons as a pet or for companionship. Companion animals have the following characteristics: have a special and close relationship with humans; are partially or totally dependent on people; commonly live inside a residence in close proximity with humans; form bonds with people; and interact with their human companions. Dogs and cats are common companion animals.

ANSI means the American National Standards Institute.

Antenna means telecommunications antenna.

Archaeological resource means any material remains of past human culture or activities that are of archaeological interest, including, but not limited to the following: basketry, bottles, carvings,

¹⁶¹ These are existing definitions, with use-related definitions extracted, except as indicated. Additional "pruning," editing and supplementation will be performed as part of subsequent ordinance drafts.

graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, are not considered archaeological resources under the regulations of this zoning ordinance, unless found in archaeological context. No item may be deemed to be an archaeological resource under regulations of to this zoning ordinance unless the item is at least 200 years of age.

Authorized use means any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

Automobile means a self-propelled, free-moving vehicle, with not more than six wheels, typically used to transport no more than 8 passengers and licensed by the appropriate state agency as a passenger vehicle.

27-32.10-B. Terms Beginning with “B”

Base (zoning) district means any zoning district that is not an overlay district.

Basement means a space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of no less than 6.5 feet.

Battery charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

Battery exchange station means a facility designed to enable an electric vehicle with a swappable battery to enter a drive land and exchange the depleted battery for a more fully charged battery through an automated process.

Bedroom means a private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

Biomass energy means energy produced from the biological breakdown of organic matter.

Block face means all parcels abutting one side of a street between the 2 nearest intersecting streets.

~~Biomedical solid waste means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, and similar waste products.~~

~~Buffer area means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to applicable provisions of to this zoning ordinance, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district.~~

Buildable area means the area of a lot remaining after the minimum setbacks and open space requirements of this zoning ordinance have been met.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building line means an imaginary line representing the vertical projection (or plumb line) of an exterior building wall that encloses interior floor space.

Building, accessory. See “Accessory building.”

Building footprint means the outline of the total area covered by a building's perimeter at the ground level.

Building mass means the overall visual impact of a structure's volume; a combination of height and width, and the relationship of the heights and widths of the building's components.

Building, principal. See "Principal building."

Building scale means the relationships of the size of the parts of a structure to one another and to humans.

27-32.10-C. Terms Beginning with "C"

Car-share program means a system in which a fleet of cars (or other motor vehicles) is made available for use by members of the car-share program and that exhibit all of the following characteristics:

1. members are permitted to use vehicles from the car-share program fleet on an hourly basis;
2. car-share vehicles are generally available 24 hours a day and 7 days a week to members in parking spaces at dispersed locations or facilities; and
3. no separate written agreement is required each time a member reserves and uses a car-share vehicle.

Car-share vehicle means a motor vehicle from a car-share program fleet.

~~**Cellar** means a space having less than one half of its floor to ceiling height above the average finished grade of the adjoining ground or with a floor to ceiling height of less than 6½ feet.~~

City manager means the person hired and designated as such by the mayor and city council.

City solid waste means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from household living uses, hotel and motels, picnic grounds and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

~~**Cluster housing development** means a development that permits a reduction in lot area provided there is no increase in overall density of development, and in which all remaining land area is perpetually and properly protected, maintained and preserved as undivided open space or recreational or environmentally sensitive areas.~~

Collector street means a street or road designated as a collector street in the ~~Dekalb County Transportation and Thoroughfare Plan.~~

~~**Commercial district** means any parcel of land that is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O I, O I T, C 2, O D, NS, C 1 and any exclusively nonresidential portions of any parcels zoned OCR.~~

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

Common open space means that open space that ~~is owned in common by all property owners within the development. is a central organizing feature of a development and is readily accessible. Common open space includes, but is not limited to: squares, plazas, village greens, parks, trails and nature preserves.~~

Compatible means land development that is consistent with existing, identified physical elements in proximity to that land development, such as architectural style, building mass, building scale, land uses, and landscape architecture.

Composting means the controlled biological decomposition of organic matter into a stable, odor-free humus.

Comprehensive plan means the ~~county~~ comprehensive plan adopted by the mayor and city council ~~until such time as the city adopts its own~~, as it may be amended from time to time, that divides areas of the city into land use categories and that constitutes the official policy of the city regarding long-term planning and use of land.

Conditional approval or *conditions* means the imposition of special requirements, whether expressed in written form or as a site plan or other graphic representation, made a requirement of development permission associated with a particular parcel or parcels of land and imposed in accordance with the terms of this zoning ordinance.

Condominium means a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis in compliance with Georgia Law.

Conservation easement means a restriction or limitation on the use of real property that is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Construction Staging Area means ~~temporary storage of construction equipment and building materials on sites (1) for which a valid land disturbance permit or valid building permit exists and (2) on which development or construction is being diligently pursued.~~

Cutoff fixture means a luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5%) at or above a vertical angle of 90 degrees above nadir, and 100 (10%) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

27-32.10-D. Terms Beginning with “D”

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways whether manmade or natural occurring both above and below ground.

Demolition of an infill building means the destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

Density ~~See Sec. 27-30.30. means the number of dwelling units per acre of land, or, in the case of nonresidential applications, it is the gross floor area per acre of land.~~

Development permit means any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the city.

Diameter-at-breast height (DBH) means tree trunk diameter measured at a height of 4.5 feet above grade level at the base of a tree.

Dripline means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Dwelling unit means one or more rooms designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single household.

Dwelling unit, efficiency, or studio means a self-contained residential unit consisting of not more than one room together with a private bath and kitchen facilities.

27-32.10-E. Terms Beginning with “E”

Easement means authorization by a property owner for use of all or a designated portion of the subject property by another property owner or entity.

Electric vehicle means any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid or an off-board source, that is stored on-board via a battery. “Electric vehicle” includes: (1) battery electric vehicles; and (2) plug-in hybrid electric vehicles.

Electric vehicle (EV) charging station means a public or private parking space that is served by battery charging station equipment.

Electric vehicle charging station, private (restricted-access) means an EV charging station that is not available for use by the general public. Examples include electric vehicle charging stations that serve residential homeowners or renters, executive parking areas, designated employee parking areas and fleet parking areas.

Electric vehicle charging station, public means an EV charging station that is accessible to and available for use by the general public.

Electric vehicle parking space means any parking space that is clearly identified to be used exclusively for the parking of an electric vehicle.

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

27-32.10-F. Terms Beginning with “F”

Façade means all the wall planes of a building seen from one side or view.

Fence means a structure designed to provide separation and security, constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the ~~city manager or his designee~~community development director.

Fenestration means the arrangement, proportioning, and design of windows and doors in a building.

Flood hazard district See Chapter 16 of the municipal code (Land Development).

Flood lamp means a form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Flood light means a form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

Floodplain means 100-year floodplain.

Floodplain, 100-year means land within the one hundred-year flood elevation as is defined in the city's land development code (Chapter 16).

Floodway See Chapter 16 of the municipal code (Land Development).

Floor area See Sec. [27-30.40](#).

Floor area ratio means the gross floor area of all heated floor space in all buildings or structures on a lot divided by the total lot area.

Foot-candle means a unit of measure for illuminance on a surface that is everywhere one foot from a point source of light of one candle, and equal to one lumen per square foot of area.

Freeway means a multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes that permits access only at designated interchanges and is so designated in the comprehensive plan.

Front door means the door located closest to the front of the dwelling that provides the most direct access to that level of the dwelling that contains the main kitchen of the dwelling.

Frontage See Sec. [27-30.20](#).

Full cutoff means a luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Full cutoff fixture means an outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

27-32.10-G. Terms Beginning with “G”

Geothermal heat exchange system means equipment that exchanges thermal energy between the ground (or a water source) and a building. This includes vertical closed loop, horizontal closed loop, water body closed loop system and open loop systems. Also known as ground source heat pumps and geothermal heat pumps.

Glare means the sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility.

Grade, average means the mean elevation of the ground along a line determined by dividing the sum of the elevation of the highest point on the line and the elevation of the lowest point on the line by two.

Grade, existing means the elevation of the ground surface before development.

Grade, finished means the final grade of the ground surface after development.

~~Grassed playing fields, mean reasonably flat and undeveloped recreation areas intended for a variety of informal recreational uses, including, but not limited to, walking, kite flying, flying disc throwing, and recreational games of soccer, softball, or cricket. In the creation of grassed playing fields, minimal grading may be used; however, specimen trees may not be damaged or removed. Grassed playing fields may not include recreation areas with amenities for a particular sport, such as baseball diamonds or golf courses.~~

Greenhouse means a temporary or permanent structure that is primarily used for the cultivation of plants.

Greenspace means undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development and that is not a part of an individual residential lot.

~~Grid pattern means a continuous web of streets in which most streets terminate at other streets to form multiple vehicular and pedestrian connections. Streets are to be laid out with primarily linear features, but the grid may be broken by circles, ovals, diagonals, and natural curves to add visual interest.~~

27-32.10-H. Terms Beginning with “H”

~~Hardship means a condition of significant practical difficulty in using a lot because of physical problems relating solely to the size, shape or topography of the lot in question that are not economic difficulties and that are not self-imposed.~~

Home occupation An accessory use of a dwelling unit for limited commercial purposes. Home occupations are subject to the regulations of Sec. 27-10.30. ~~means an occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of to this zoning ordinance. Home occupation does not include “private educational use” as defined in to this zoning ordinance.~~

Hoop house means a temporary or permanent structure typically made of flexible pipe or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of protecting and cultivating plants. A hoop house is considered more temporary than a greenhouse.

Household means a group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than 4 persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. This definition specifically includes 4 or fewer persons with mental, developmental, or other disabilities as defined in the Fair Housing Act, 42 USC 3601 et seq., living as a housekeeping unit and otherwise meeting this definition of “household.”

Household pet means a domestic animal that is customarily kept for personal use and enjoyment including domestic dogs, domestic cats, canaries, parrots, parakeets, domestic tropical birds, hamsters and guinea pigs. Household pet does not include livestock, poultry, pot belly pigs, pit bulls, or snakes.

27-32.10-I. Terms Beginning with “I”

IESNA means the Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

Illuminance means the quantity of light arriving at a surface divided by the areas of the illuminated surface measured in footcandles. Horizontal illuminance applies to a horizontal surface; vertical illuminance applies to a vertical surface. Average illuminance is the level of illuminance over an entire illuminated target area. Maximum illuminance is the highest level of illuminance on any point within the entire area; minimum illuminance is the lowest level of illuminance on any point within the entire area.

Illuminance levels and footcandles noted in this zoning ordinance mean the maintained illuminance levels, the illuminance levels occurring just prior to lamp replacement and luminaire cleaning. The average illuminance level applies to an entire illuminated target area. Minimum and maximum illuminance levels apply to small areas within the entire illuminated target area. Unless otherwise noted, illuminance levels refer to horizontal illuminance levels.

~~*Industrial* means the comprehensive plan land use category that includes light and heavy distribution, warehouse, assembly, manufacturing, quarrying, truck terminals, and landfills.~~

~~*Industrial district* means any parcel of land that is zoned for industrial use including property used for light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills. Such districts include M-1 and M-2 districts and include any commercial land uses allowed in M-2.~~

Industrial solid waste means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste as defined herein. Such wastes include, but are not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Industrialized building means any structure or component of a building that is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation-site without disassembly, damage to, or destruction thereof.

Infill building means any building built or proposed to be built on an infill lot.

Infill lot means: (1) a conforming lot or a nonconforming lot of record created by the demolition of an existing residential structure for the replacement of that structure with new construction; (2) any lot intended for use as a site for a detached house that is created by act of subdivision; and (3) any lot that, at the time it is zoned, has no principal building and that is subsequently proposed as a site for a detached house.

~~*Institutional* means the comprehensive plan land use category that includes the following uses: government-owned administration buildings and offices, fire stations, public hospitals and health care~~

~~facilities, child day care centers, public schools, colleges and educational research facilities, places of worship, and cemeteries.~~

Interim development control means an ordinance that temporarily imposes developmental regulations when existing regulations do not adequately protect the public's health, safety and welfare in accordance with the standards specified in this zoning ordinance.

Invasive (plant) species: means any plant species, including its seeds, spores or other biological material capable of propagating that species, that is not native to that ecosystem; and whose introduction does or is likely to cause environmental harm.

27-32.10-J. Terms Beginning with “J”

Junk vehicle means any vehicle that is ~~nonoperable~~inoperable or any vehicle that does not bear a current, valid license plate.

27-32.10-K. Terms Beginning with “K”

Kiosk means a freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

Kitchen facilities means a room used to prepare food containing, at a minimum, a sink and a stove or oven.

27-32.10-L. Terms Beginning with “L”

Landscape/landscaping means the act of enhancing the appearance of the land by altering its contours and planting trees, shrubs, vines, flowers, turf, groundcover and other plant materials for aesthetic effect.

Land use means a description of how land is occupied or utilized.

~~*Landscape buffer* means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to a condition or conditions imposed by the mayor and city council in the enactment of a conditional zoning ordinance or special land use permit, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district. Any such landscaped buffer shall not be graded or otherwise disturbed, and all trees and other vegetation shall remain, provided that additional trees and other plant material may be added to such landscaped buffer.~~

~~*Landscaped space* means the areas of a parking lot that are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features that are located within such parking lot and that are generally accessible to patrons or the general public during normal business hours.~~

Leachate collection system means a system at a landfill for collection of the leachate that may percolate through the waste and into the soils surrounding the landfill.

Lot means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

~~*Lot area* See Sec. 27-30.10. means the total area within the lot lines of a lot, excluding any street rights-of-way and any area used for a retention pond.~~

~~Lot, buildable area of~~, means the portion of a lot remaining after required yards have been provided. ~~Buildings may be located within any portion of the buildable area of a lot, except that if there are lot coverage limitations that exceed the area in required yards, the remaining required open space shall be provided within the buildable area of the lot.~~

~~Lot, conforming~~, means ~~a designated parcel, tract, or area of land that meets the lot area and lot width requirements of this zoning ordinance, that has the amount of frontage on a public or private street required by this zoning ordinance.~~

Lot, corner, means a lot abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage See Sec. ~~27-30.50~~.

Lot, double-frontage, means a lot that abuts 2 parallel streets or that abuts 2 streets that do not intersect at the boundaries of the lot. Double-frontage lots are sometimes referred to as “through lots.”

Lot, interior, means a lot, other than a corner lot, abutting only one street.

Lot, nonconforming See ~~27-29.20-A~~.

~~Lot, substandard~~, means ~~a designated parcel, tract, or area of land created after the time of enactment of this zoning ordinance or amendment of this zoning ordinance that does not meet the lot area, lot width, or public or private street frontage and access requirements of this zoning ordinance. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.~~

Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the street.

Luminaire means a complete lighting unit consisting of a lamp or lamps and the parts designed to distribute the light, to position and protect the lamp, and to connect the lamp to the power supply. These parts include the lamp, reflector, ballast, socket, wiring, diffuser and housing.

27-32.10-M. Terms Beginning with “M”

~~Major thoroughfare~~ means ~~a street, road or highway shown as a major thoroughfare in the city transportation and thoroughfare plan.~~

~~Minor thoroughfare~~ means ~~a street, road or highway shown as a minor thoroughfare in the county transportation and thoroughfare plan.~~

~~Mixed-use component~~ means ~~a definable and compact area of a development in a pedestrian community district that contains a mix of residential and nonresidential uses.~~

Mixed-use development means a development that ~~incorporates a variety of two or more different land uses, buildings or structures, that includes both~~ primary residential uses and primary nonresidential uses that are part of the same integrated development, whether within the same building or on the same walkable, interconnected site. ~~Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational or public open space, in a compact urban setting that encourages pedestrian-oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.~~

~~Mobile home lot means a parcel of land, approved pursuant to the subdivision requirements of this Code, in a mobile home park that is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.~~

Multiuse property means any distinct parcel of land that is being used for more than one land use purpose.

27-32.10-N. Terms Beginning with “N”

~~Neighborhood means an area of the city within which residents share a commonality of interests including distinct physical design and street layout patterns, a shared developmental history, distinct housing types, or boundaries defined by physical barriers such as major roads and railroads or natural features such as creeks or rivers.~~

New construction on an infill lot means the replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable square footage in the building, structure or addition.

Node means a concentration of population, retail, and employment within a well-defined area that has a diverse mix of land uses and a pedestrian and transit orientation.

~~Nonconforming characteristics of building or structure means a building or structure, legally existing on the effective date of this zoning ordinance, but that fails to comply with one or more of the district or general non-use development regulations adopted under the terms of this zoning ordinance that are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.~~

~~Nonconforming use of land See Sec. 27-29.40-A. means a use of land, including any land whereon the value of all the improvements is less than \$10,000.00 based on the assessed value of said improvements as established by the city board of tax assessors at the date of enactment of this zoning ordinance, legally existing on the effective date of this zoning ordinance, but that is not an authorized use under the terms of this zoning ordinance in the district in which such use is located.~~

~~Nonconforming use of land and buildings or nonconforming use of land and structures means a use of land and buildings or land and structures, in combination, legally existing on the effective date of to this zoning ordinance, but that is not an authorized use of land and buildings or land and structures, in combination, under the terms of this zoning ordinance in the district in which such use is located.~~

~~Nonconforming use requiring special exception or special land use permit means a use of land, or land and buildings or structures in combination, legally existing on the effective date of this zoning ordinance, but that is not an authorized use under the terms of this zoning ordinance in the district in which such use is located but is permitted only upon approval of a special exception or special land use permit by the appropriate body.~~

Nonresidential development means any development that does not include residential uses all commercial, office, institutional, industrial and similar lands and uses.

27-32.10-O. Terms Beginning with “O”

~~Official zoning map or maps means the zoning maps of the city that are adopted with and incorporated into this zoning ordinance and shall be a part of the zoning ordinance.~~

One-part commercial block style means a single-story building that has a flat roof, a facade that is rectangular in shape, and in which the fenestration in the facade is equal to 75% of the width of the front facade of the building.

Open-air uses means storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar open-air uses when the only buildings on the parcel are incidental and accessory to the open-air use of the lot.

~~*Open space* means that portion of a lot, including yards, established pursuant to the requirements of this zoning ordinance as open space, that is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, that is accessible to all persons occupying a building on the lot and is not a part of the roof of any portion of any building.~~

Outdoor lighting fixture means outdoor artificial illuminating device, lamp, and other similar device used for flood lighting, security, and/or general illumination. Such devices include: outdoor lighting of buildings and structures, including building overhands and canopies; outdoor lighting of recreational areas or parking lots; security lighting; street lighting; landscape lighting; building-mounted area lighting; product display area lighting; and building facade lighting.

Outdoor storage means the keeping, in an unenclosed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours.

27-32.10-P. Terms Beginning with “P”

Parking garage means a covered or sheltered structure designed, constructed and used for the parking of motor vehicles.

Parking lot means any area designed for temporary storage of motor vehicles of the motoring public in normal operating condition, whether for a fee or as a service.

~~*Parking space* means a paved area of not less than 120 square feet (small car space) or not less than 153 square feet (large car space) of space with dimensions of not less than eight feet wide by 15 feet deep (small cars) or eight feet, six inches wide by 18 feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.~~

Paved means an improved area, covered by asphalt, concrete, or other hard surface material, that may or may not be impervious. “Paved” specifically excludes dry gravel and similar materials as a finished product.

~~*Permitted use* means any use that can be undertaken only after approval by the designated authority of the special land use permit, special exception, or special administrative permit that is required by the terms of this zoning ordinance.~~

Pervious surface means a ground covering of hard-surfaced material placed in an improved area, for such uses as walkways and pedestrian plazas/terraces, on-grade vehicle parking lots, and drive-ways. Pervious surfaces include but are not limited to porous concrete and modular porous paver systems that are designed to allow infiltration of stormwater, consistent with stormwater BMPs. Pervious paving areas are considered “impervious surface areas” for the purposes of calculating impervious surface coverage.

Photovoltaic cell means a semiconductor device that converts solar energy into electricity.

Pitch of roof lines means the ratio of the rise to the run in the slope of a roof.

~~Primary conservation area means that portion of a site for which application is made for cluster housing development that consists of areas that are unbuildable due to the presence of wetlands, floodplains, steep slopes, or other similar environmental conditions.~~

~~Principal building means the building in which occupied by is conducted the principal use of the subject lot on which it is located.~~

Principal use means the primary or predominant use of ~~any~~ the subject lot.

Private restrictive covenants means private restrictions on the use of land or structures imposed by private contract, such as subdivision covenants.

Private right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public uses means land or structures owned by a federal, state or local government, including a board of education, and used by ~~said~~ the respective unit of government for a necessary governmental function.

27-32.10-Q. Terms Beginning with “Q”

RESERVED

27-32.10-R. Terms Beginning with “R”

Real property line means (1) the imaginary line, including vertical extension, that separates one parcel of real property from another; (2) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-unit residential building; or (3) on a multiuse property, the dividing lines that separate various portions of the property used for different purposes.

Real property owners within a proposed or enacted residential infill overlay district means the homeowners or other real property owners of land within the residential infill overlay district as indicated in the tax records maintained by the county board of tax assessors.

~~Receptor property means any property from which a complainant has filed a complaint with an authorized enforcement agency.~~

Recovered materials means those materials that have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recreational vehicle means a vehicle that is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

~~Required yard shall mean the horizontal distance between lot or street lines and the minimum primary building setback lines as established by this zoning ordinance.~~

Renewable energy means energy from resources that are quickly replenished, such as sunlight, wind, water, biomass, geothermal resources.

Residential district See [Article 4](#).

Residential use means the occupation of a building and land for human habitation.

Retaining wall means a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion. A retaining wall is not a wing wall or an areaway. [See also Article 15](#).

Roominghouse. See Boardinghouse.

27-32.10-S. Terms Beginning with “S”

Satellite television antenna means an apparatus capable of receiving but not transmitting television, radio, or cable communications from a central device transmitting said communications.

~~Screening fence means an opaque structure designed to provide a visual barrier constructed of materials including wood, chain link with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the city manager or his designee.~~

~~Secondary conservation area means that portion of a site for which application is made for cluster housing development that consists of those areas of land that are outside the primary conservation area but that are environmentally sensitive, historically or culturally significant, scenic, or that possess other unusual attributes that merit conservation.~~

~~Secretary means the community development director or his designee who shall serve as secretary to the community council, planning commission and as secretary to the zoning board of appeals.~~

Semi-nude means the exposure of one or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

~~Setback See Sec. 27-30.60. means the minimum horizontal distance required between the street right of way line and the principal building or structure on a lot or any projection thereof except the projections of unenclosed porches, steps, eaves, gutters and similar elements that are authorized exceptions to building setback line requirements in this zoning ordinance.~~

~~Shared parking means parking shared by two or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. Shared parking areas must have interconnected or shared driveways and be subject to formal agreements for shared use of parking spaces.~~

Sexually oriented business. See Sec. [27-8.40-A.1](#).

Site plan means that plan required to acquire a development, construction or building permit that shows the means by which the developer will conform with applicable provisions of this [zoning ordinance](#)~~article~~ and other applicable ordinances.

Solar energy system means a system intended to convert solar energy into thermal, mechanical or electrical energy.

Solar energy system, building-integrated means a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, shading devices and similar architectural components.

Solar energy system, structure-mounted means a solar energy system that is mounted on the façade or roof of either a principal or accessory structure.

Solar energy system, flush-mounted means a solar energy system that is mounted flush with a finished building surface, at no more than 6 inches in height above that surface.

Solar energy system, ground-mounted means a solar energy system mounted on the ground and not attached to any other structure other than structural supports.

Solar panel means a group of photovoltaic cells assembled on a panel. Panels are assembled on-site into solar arrays.

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 USC 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

Solid waste handling means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

~~Special administrative permit means a written authorization granted by the city manager or his designee for a use of land pursuant to an application that that official is authorized to decide as specified within a zoning district or in article V, division 2 of this zoning ordinance, pursuant to the procedures and criteria contained in article V, division 4 of this zoning ordinance.~~

~~Special exception means the approval by the zoning board of appeals of an application that that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article V, division 5 of this zoning ordinance.~~

~~Special land use permit means the approval by ordinance of a use of land that the mayor and city council is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article V, division 3 of this zoning ordinance.~~

~~Special permit means a special administrative permit, special exception, or special land use permit.~~

Specified anatomical areas means any of the following:

1. Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or
2. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities means any of the following:

1. Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism;
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;

3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
4. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

Spill light means the light that illuminates surfaces beyond the intended area of illumination caused by the uncontrolled direct light component from the luminaires.

Stormwater management facility means those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of storm water runoff into and through the drainage system.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, is classified as a story.

Street, private means any street that provides vehicular or pedestrian access within a development that is not dedicated or intended to be dedicated to the city, and that is not maintained by the city.

Street, public means any right-of-way set aside for public travel deeded to the city and any right-of-way that has been accepted for maintenance as a street by the city.

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

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. This does not include telephone poles and utility boxes.

Structure, accessory. See Accessory structure.

Subdivision means as set forth in the city development code (Chapter 16).

27-32.10-T. Terms Beginning with “T”

Telecommunications tower or antenna height means the vertical distance from grade to the highest point of the telecommunications tower, grade being the average level of the pre-existing or finished surface of the ground adjacent to the exterior of the tower, whichever is lower. When referring to a telecommunications antenna alone, it means the vertical distance from the base of the antenna to its highest point. Where telecommunications towers and antennae are used in combination, height means the vertical distance from grade to the highest point of either the tower or antenna, whichever is highest.

Threshold means the top of the subfloor in the opening that is designated as the front door of a dwelling.

Tree means any self-supporting woody plant that usually provides one main trunk and produces a more or less distinct and elevated head with branches.

Tree canopy means the area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

Trespass light means the offsite spill light that illuminates beyond the property boundaries in which the light fixture is installed, where it is neither wanted nor needed.

Truck means every motor vehicle designed, used, or maintained primarily for the transportation of property.

Two-part commercial block style means a building of two stories or greater in height that has a flat roof and is characterized by a horizontal division of the building facade into two distinct zones. These zones may be similar in design but must be clearly separated from one another. The ground floor level of the building must contain fenestration equal to 75% of the width of the front facade of the building.

27-32.10-U. Terms Beginning with “U”

Usable satellite signals means satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

Use means the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Utility-scale energy production means an energy production facility that produces electric energy for widespread distribution through the electric power grid.

27-32.10-V. Terms Beginning with “V”

Vacant and undeveloped means the comprehensive plan land use category that includes forested areas, undeveloped land and land not used for any other identified purpose.

Van service means a commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination, and in which service is usually provided in a closed vehicle with a capacity of eight to 12 passengers.

Vehicular use area means any area on a parcel that is not located within any enclosed or partially enclosed building and that is devoted to a use by or for motor vehicles including parking; storage of automobiles, trucks or other vehicles; gas stations; car washes; vehicle repair establishments; loading areas; drive-through service areas; and access drives and driveways.

Viewshed means the total visible area from an identified observation position or positions.

27-32.10-W. Terms Beginning with “W”

Wall means a solid retaining or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials as may be approved by the community development director. [See also Article 15.](#)

Water collection cistern means a barrel or similar container that collects and stores rainwater or other water that would otherwise be lost as runoff or diverted into a storm drain.

Weekday means the time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

Weekends means the time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

Wetlands means an area of land meeting the definition of “wetlands” set forth in 33 CFR 328.3(b), as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

Wing wall means a wall that is constructed and poured at the same time as the building foundation, and is structurally a part of the building foundation. A wing wall is not a retaining wall or an areaway. [See also Article 15.](#)

~~**Workforce housing** means for sale housing that is affordable to those households earning 80% of median household income for the Atlanta MSA as determined by the current fiscal year HUD income limit table at the time the building is built.~~

27-32.10-X. Terms Beginning with “X”

RESERVED

27-32.10-Y. Terms Beginning with “Y”

Yard means ~~that the actual~~ area of a lot between the principal building and adjoining lot lines. [Note: “setback” refers to the minimum distance that buildings are required to be set back from property lines, unoccupied and unobstructed by an portion of a structure from the ground upward, except as otherwise provided herein. The minimum required width or depth of a yard shall be determined as the horizontal distance between lot or street lines and minimum setback lines as established by this zoning ordinance.](#)

27-32.10-Z. Terms Beginning with “Z”

Zoning decision means final legislative action by a local government that results in: (1) the adoption of a zoning ordinance; (2) the adoption of an amendment to a zoning ordinance that changes the text of the zoning ordinance; (3) the adoption of any amendment to a zoning ordinance that rezones the property from one zoning classification to another; (4) the grant of a permit relating to a special use of property, as defined in O.C.G.A. §36-66-3, and as may hereafter be amended by state law.