



## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Madalyn Smith, Senior Planner

**Date:** September 13, 2021

**Subject:** Text Amendments  
 Chapter 8, 16, 26, and 27

---

### **ITEM DESCRIPTION**

The general purpose of the proposed text amendments is to clarify vague language and correct inconsistencies.

### **PLANNING COMMISSION REVIEW**

On its August 10, 2021 meeting, the Planning Commission reviewed the proposed text amendments to Chapters 8, 16, 26, and 27. The amendments were discussed chapter by chapter and four separate motions were made. The Commission generally expressed support of all proposed changes.

Chapter 8: The Commission recommended approval with a 6-0 vote.

Chapter 16: The Commission recommended approval with a 6-0 vote.

Chapter 26: The Commission recommended approval with a 6-0 vote.

Chapter 27: The Commission recommended approval, subject to an amendment to Section 150.1, with a 6-0 vote. The Commission recommended the amendment to Section 150.1 reference the code section detailing the appeals process.

### **DISCUSSION**

#1 - Section 8-27, Design Professional Requirements:



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

This item is a request to require a licensed engineer or architect to seal plans for residential structures. Currently, all residential structures are exempt from this requirement. However, new single-family detached homes in Dunwoody are typically 3,000 to 5,000 SF, well above the national average for the United States, and this amendment is necessary to properly ensure the safety and welfare of existing and future Dunwoody residents.

#### #2 - Section 8-27, Time Limitations:

This item is a request to clarify the language for expired permits and specify a path to reinstate expired permits. The existing language does not address how to reinstate permits after they have been issued. This amendment aligns the code with established department policy. This amendment specifies that there is an applicable fee to reinstate an issued permit. A companion resolution is included in this package specifying this change.

#### #3 - Section 16-29, Time Limitations:

This item is a request to add time limitations to development permits. This is currently not specified in the code and would reflect the language as seen in Section 8-27.

#### #4 - Section 26-8, Obstruction of the Right-of-Way:

This item is a request to add regulations that outlaw obstruction in the Right-of-Way. Obstruction of the right of way could include, for example, overgrown hedges spilling out onto the sidewalks or road, which creates an obstacle for pedestrians and can interfere with the line of sight for drivers. Obstruction of the right-of-way poses a threat to public safety and the proposed amendment is a common provision in other municipalities to rectify this issue.

#### #5 - Section 27-30, Expired and Obsolete Zoning Districts:

This item is a request to add an appendix containing the lot and building regulations for the R-CH (Single-Family Cluster Residential) and R-CD (Residential Community Development) zoning districts. Dunwoody has 2 expired zoning districts, R-CH and R-CD that still exist on the zoning map. There are 8 remaining subdivisions (~420 lots) that maintain an R-CH or R-CD zoning classification, but properties may no longer rezone to R-CH or R-CD. The Code acknowledges the existence of these subdivisions, but the zoning regulations that govern these properties was removed. Staff proposes to reintegrate these regulations, with no changes to their previous text, for ease of reference.



#### #6 - Section 27-58, Rear Setback on Corner Lots:

This item is a request to amend the lot regulations for single-dwelling districts. As written, corner lots are not subject to a rear setback, only street and interior side setbacks. This provision, enacted in 2014, conflicts with standard practice, as well as most Dunwoody subdivision plats. The amendment redefines the rear setback as the lot line parallel to the lot frontage. Staff recommends that the code be updated to reflect this standard method for determining a rear setback.

#### #7 - Section 27-72, O-I Allowed Uses:

This item is a request to amend the allowed uses in the O-I zoning district. Staff was prompted to propose this amendment after receiving a business license request for a jewelry store located in an office building in the O-I zoning district, which was initially denied.

Currently, retail is not permitted in the O-I district, but staff proposes to allow *Other food and beverage sales* and *Other retail sales* subject to the following conditions:

- a. Not permitted in any residential buildings or buildings with a residential component.
- b. Allowed only as an accessory use on the ground floor of a multi-story office or institutional building.
- c. Maximum floor area of the tenant suite is limited to 2,000 square feet.

Conditions (a) and (b) ensure that retail uses do not encroach into residential areas. The O-I district has several multi-family residential buildings that are considered legal nonconforming ("grandfathered-in"). Condition (c) is intended to encourage a boutique retail experience, rather than attracting big-box or large chain retailers. The overall purpose of the conditions is to ensure that the character of the O-I district remains the same while also allowing property owners of multi-story offices complexes flexibility to legally market and rent space to a larger pool of tenants. This would be a major benefit given the recent high commercial vacancy rates. Staff recommends approval of this amendment.

#### #8 - Section 27-111, Use Determinations:

This item is a request to amend Section 27-111 by removing public notice requirement for use determinations. Section 27-111 part (5) details the criteria the Director uses to make use determinations and requires all decisions to be published and a notice sent out to adjacent property owners.



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

Use determinations are an everyday occurrence and a normal part of the general operations of a planning and zoning division. It would be an impossible undertaking to provide public notification for every use determination. For these reasons, staff recommends that this requirement be removed from Section 27-111.

#9 - Section 27-147, Residential Infill:

This item is request to amend the Director's ability to make determinations whether contextual regulations for lot size, width, frontage, and setbacks apply. The current text is imprecise but the intention of the code is to allow flexibility in the application of contextual regulations. It is staff's opinion that the proposed amendment more clearly communicates the intention of the code and recommends approval without changing any of the applicable standards.

# 10 - Section 27-174, Relative's Residences:

This item is a request to remove a sentence from Sec. 27-174, which governs relative's residences. The existing code stipulates that a second kitchen facility may be constructed in a detached house for the exclusive use of relatives of the property owner; it also stipulates that the unit must be removed once it is vacated. The intent of this stipulation is to prevent the relative's residence from being rented by someone outside the household once the relative vacates. However, this section of the code is logistically challenging to enforce, as well as redundant. The residential use category is already written to prevent two households from living on a property zoned for single family residential use. For this reason, staff recommends approval of the amendment to remove the described provision.

# 11 - Section 27-439 & 27-442, Posted Notice for Special Administrative Permits:

This item is a request to amend the posted notice requirements for Special Administrative Permits.

Staff recommends adding a sentence to Sec. 27-439 specifying that decisions will be posted on the City's webpage. This is an already established policy staff follows.

Staff recommends removing the requirement in Sec. 27-442 that decisions must be published in the newspaper for Special Administrative Permits. Since decisions are posted online, it is redundant.

# 12 - Section 27-104 & Section 27-574.5, Perimeter Center Open Space:



This item is a request to amend the Perimeter Center regulations by removing the requirement that developments with a floor-area-ratio (FAR) over 12 to provide an additional type of open space and to remove the definition for floor-area-ratio.

This amendment would have no effect on the amount of open space required, just the type. There are 4 types of open space defined: plaza, green, commons, and park. The requirement for an additional type of open space is unnecessary for several reasons. First, an FAR of 12 is very high and very few developments, if any, would reach that. This regulation also has little value, since the maximum types of open space that can be used to meet the requirement is two. This is also the only requirement in the code that utilizes FAR; the City does not specify a maximum FAR, instead we use maximum lot coverage ratios. If FAR is removed from the Perimeter Center regulations, the definition in Sec. 27-574.5 should be removed as well.

#### # 13 - Section 27-402 & Section 27-425, Concurrent Variances & Concurrent Special Exceptions:

This item is a request to include regulations for concurrent variances and concurrent special exceptions. This allows the Planning Commission and the City Council to consider and grant variances and special exceptions when applied for as part of a rezoning or special land use permit application. This removes the need to go through two separate processes for development projects that require both a zoning action and a form of relief.

This amendment would not change the criteria for variances or special exceptions. The Planning Commission and the City Council would simply apply the regular approval criteria. When making its recommendation, the Planning Commission will make a recommendation for each concurrent variance or each concurrent special exception with its recommendation for the rezoning or the special land use permit. The City Council would then include the concurrent variance or concurrent special exception as a zoning condition.

#### # 14 - Appeals:

This item is a request to amend multiple sections in multiple chapters of the code related to appeals. Overall, the goal of these amendments is to establish a consistent procedure and timeline for all appeals, for the benefit of both applicants and staff.



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

There is an established, standard process for requesting appeals in Chapter 27, Article V, Division VIII (Sec. 27-456 to 464). This section establishes that those aggrieved by an administrative decision, i.e. the issuance of a permit, the issuance of a license, or a determination by the director, may appeal to the Zoning Board of Appeals.

Sec. 27-150.1 contradicts the established process by specifying that those appealing the decision to deny an administrative permit for telecommunication facilities must be brought before the mayor and city council. Staff recommends that the contradicting portion of Sec. 27-150.1 be removed and that appeals follow the established procedure.

In Chapter 16, Land Development Regulations, there is no standard process for appeals. There is an appeals process specified in section 16-114, 16-190, 16-202, 16-222, and 16-272. The sections contradict one another and the timelines do not make sense. These sections will be amended to reference the standard appeals process.

Staff recommends to amend Section 16-33 and add a new division: Chapter 16, Article V, Division 2. The amended Section 16-33 and new Division 2 will establish a standard process to appeal administrative decisions that were made based on Chapter 16's regulations. These sections mirror the process detailed in Chapter 27.

Appeals to decisions made in accordance with article II will follow the procedure detailed in Section 16-33. Appeals to decisions made in accordance with article III or IV will follow the procedure detailed in article V, division 2.



ARTICLE V. ~~— VARIANCES~~ AND ADMINISTRATIVE APPEALS<sup>[14]</sup>

Footnotes:

--- (14) ---

**Editor's note—** Section 1 of Ord. No. 2015-01-04, adopted Jan. 26, 2015, added a new art. V, and redesignated former div. 6, "Subdivision Variances," § 16-256 as new div. 1, § 16-271 to read as herein set out.

## DIVISION 1. - VARIANCES

## Sec. 16-271. - Authority.

- (a) The zoning board of appeals is authorized to hear and decide applications for variances from the strict application of articles III or IV, where strict application of any of the regulations of this articles III or IV would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements; thus, variances from the requirements of articles III or IV 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 articles III or IV 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.
- (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 [in] section 16-241.
- (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.
- (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.

- (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.
- (f) After the filing of a complete application for a preliminary plat variance, the application must be placed on the next available meeting agenda 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.
- (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 approved.
- (h) 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.

(Ord. No. 2013-10-14, 1(Exh. A § 16-16.10), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

## DIVISION 2. APPEALS OF ADMINISTRATIVE DECISIONS

### Sec. 16-272. - Applicability.

The procedures of this division apply to appeals of administrative decisions made in accordance with articles III or IV.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.10), 10-14-2013)

### Sec. 16-273. - Authority to file.

Any person or entity (i.e., an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line aggrieved by an administrative decision may appeal the decision.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

### Sec. 16-274. - Application filing.

Decisions by the community development director made pursuant to this division may be appealed to the Zoning Board of Appeals (ZBA) by filing a request with the community development director within thirty (30) days of the community development director's decision. Appeal shall be in accordance with procedures and conditions of this division. If no appeal is made within the thirty (30)-day period, the decision of the community development director is final. If an appeal is made to the ZBA, the ZBA must set a hearing date for the appeal within thirty (30) days of the appeal being requested and the decision of the ZBA is final. The thirty (30)-day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within thirty (30) days of their actual or constructive notice of the decision.



(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.30), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 16-275. - 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 county superior court on notice to the official whose decision is being appealed and on due cause shown.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.40), 10-14-2013)

Sec. 16-276. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.50), 10-14-2013)

Sec. 16-277. - Hearing notice.

Mailed notice of the Zoning Board of Appeals hearing must be provided to the appellant at least thirty (30) days before the date of the Zoning Board of Appeals hearing.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.60), 10-14-2013)

Sec. 16-278. - Hearing and decision.

- (a) The Zoning Board of Appeals must hold a hearing to consider all appeals of administrative decisions.
- (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.
- (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 of appeals 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.70), 10-14-2013)

Sec. 16-279. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.80), 10-14-2013)

Sec. 16-280. - Appeals.

- (a) Any person or entity authorized by Sec. 16-273 may seek review of such decision by petitioning the county superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within thirty (30) days of the date that the Zoning Board of Appeals renders its final decision.
- (b) When a petition is for a writ of certiorari is filed, the Zoning Board of Appeals (ZBA) must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the ZBA is authorized to acknowledge service of a copy of the petition and writ on behalf of the ZBA, as respondent. Service upon the city as defendant must be as provided by law.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.90), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

~~Secs. 16-272—16-280.—Reserved.~~

Sec. 16-222. - Appeals.

Decisions by the community development director made pursuant to this division may be appealed ~~in accordance with procedures and conditions in Chapter 16, Article V, Division 2. to the city council by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the city's web page and in a newspaper of general circulation within the city. The 30-day appeal period shall start to run upon the earlier of said postings. Appeal shall be in accordance with procedures and conditions in chapter 16, section 16-33. 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.~~

(Ord. No. 2013-10-14, 1(Exh. A § 16-2.60), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

DIVISION 4. - FINAL PLATS<sup>[10]</sup>

Footnotes:

--- (10) ---

**Editor's note**— Section 1 of Ord. No. 2015-01-04, adopted Jan. 26, 2015, amended and reorganized former § 16-207, "Final plats" in order to create a new div. 4, §§ 16-201—16-203.

Sec. 16-201. - Applicability.

Minor subdivisions are required to be reviewed under the provisions of this division. Proposed major subdivisions are required to be reviewed under the provisions of this division after completion of all required improvements in accordance with the approved preliminary plat.

(Ord. No. 2013-10-14, 1 (Exh. A § 16-13.20), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-202. - Final plat procedure.

- (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, or as required by this chapter.
- (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.
- (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 required improvements are complete and in conformity with the Code of Ordinances:
    - a. Appropriate official of the department of community development;
    - b. City geographic information system department;
    - c. Public works department;
    - d. Any other department or entity the community development director deems appropriate.
  - (2) Any department to which the final plat is submitted must note 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, when required by the procedures of this chapter. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department must note the manner in which the plat fails to meet these requirements.
  - (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, when one is required by the procedures of this chapter, and must comply with the city zoning and land development ordinances, including any conditions of zoning.

(d) *Community development director approval.*

- (1) The community development director as the designee for the governing authority of the city must approve or disapprove the final plat. If the final plat is denied, the community development director 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 community development director must place the following wording on the original as follows:

"This plat has been submitted to and accepted by the Community Development Director 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: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

[Community development director as designee of the governing authority]"

- (2) Final plat acknowledgement and approval by the community development director 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).

- (e) *Appeals.* The decision of the community development director to approve or disapprove the final plat may be appealed in accordance with procedures and conditions in Chapter 16, Article V, Division 2. to the city council by request in writing to the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the community development director is final. The 30-day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. 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. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.

- (f) *Recording.* The approved final plat must be recorded with the clerk of the county superior court by the applicant and returned to the community development director.
- (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.
- (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.
- (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.

- (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 0.08 inches.
- (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;
  - (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) Special flood hazard area contour line and setback 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 two 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 four-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.
- (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.
- (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.
- (n) *Protective covenants.* The final plat may not contain protective covenants stipulating lower standards than the minimum restrictions required by the city zoning ordinance.
- (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;
  - h. A statement regarding whether there will be a mandatory membership in any homeowners association and if so, a copy of the budget for the association for its first year of operation including the estimated amount of the first year's assessments and the estimated amount of revenue to be subsidized by the developer; and
  - i. An explanation of the timing and method of transfer of control of the association to the homeowners where there is a mandatory membership in the homeowner's association governing the residential subdivision.
- (3) With respect to the first phase and subsequent phases of a multiphase residential development, the applicant must also submit the following information:
  - a. An estimated date of completion of each phase of a multiphase residential development and estimated date of completion of all phases of the development;
  - b. A statement of the average size of homes to be constructed in the future phases of the development, any specified type 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 any community amenities to be built within the development currently or in the future, including, but not limited to, a clubhouse, tennis courts or swimming pools the applicant is committed to constructing in future phases; and
  - d. A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the future phases of the development.
- (4) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in this subsection, the applicant must note the same in the disclosure statement filed with the community development director which statement must be made available by the community development director to the public.
- (5) After the required disclosure statement has been submitted, the community development director must examine the information provided and determine whether the information submitted is consistent with the final plat and if the information is consistent, the community development

director must approve the disclosure statement in writing within 35 days of submission of the statement.

- (6) If it appears to the community development director that a disclosure statement is incomplete or fraudulent, the community development director must disapprove the disclosure statement and notify the applicant for the final plat in writing within 14 days after the initial submission of the statement. Such notification suspends the review of the final plat by any city employee or official until the applicant files such additional information, as the community development director requires. No final plat may be certified by the community development 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, ten days prior to the real estate closing on any property governed by this section.
- (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 subsection (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 subsection (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.

(Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2019-01-01, § V, 1-28-2019)

Sec. 16-203. - Revised final plat.

- (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. Major. Changes to an approved or recorded subdivision plat that would significantly alter the layout of any public street, alley, or road shown on such plat, or area reserved thereon for public use, or if it would affect any map, plan, or plat legally recorded before adoption of any subdivision regulations, such amendment shall be approved by the same procedure, rules, and regulations required for a new subdivision.
  - c. Minor. Changes to an approved or recorded subdivision plat, including but not limited to, adjusting lots and lot lines, utility easements, streets, shifting of open space and common areas, and other changes considered by the director of community development to be minor in nature and that do not create any additional lots may be approved administratively by staff as a final plat, so long as open space and amenities are not reduced or made less effective, and the overall result is not a substantially new design. The submission of official plats for

signing, recording, and for the department record shall be followed as required in this chapter.

- d. If the community development director determines the change is major, the revised plat must proceed through the approval process for major or minor subdivisions described in this Code, depending on the applicability provisions.
- (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 subsection.
- (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 Community Development Director 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 \_\_\_\_\_, \_\_\_\_\_

Community Development Director 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.

(Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2019-01-01, § VI, 1-28-2019)

Secs. 16-204—16-215. - Reserved.

### DIVISION 3. - MAJOR SUBDIVISION PROCEDURE

#### Sec. 16-186. - Applicability.

Proposed subdivisions not eligible to be reviewed under the minor subdivision procedures of this article are required to be reviewed as a major subdivision and subsequent final plat, including major changes to revised final plats.

(Ord. No. 2015-01-04, § 1, 1-26-2015)

#### Sec. 16-187. - Preliminary plat procedures.

- (a) *Pre-application conference.* Before filing the preliminary plat for a subdivision for review and approval, the applicant must meet with the community development director or his designee to present a generalized concept plan for the proposed project and 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. 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.
- (b) *Application and preliminary plat required.* The owner of the land where the proposed development is to occur, or his authorized agent, must file a preliminary 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 three copies of the preliminary 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.
- (c) *Plat information.* The following information must be shown on the preliminary 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 two-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 II, division 6, 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 (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 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 eight-inch fire lines;
- (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 preliminary 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 preliminary plat;
- (35) *Covenants.* Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;
- (36) *Fencing.* Show any required fencing around detention ponds, if required; and
- (37) *Electrical service.* Show the location of electrical service.
- (d) *Additional Information.* The following additional information must be submitted with the preliminary 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.
- (e) *Scale.* Preliminary 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.
- (f) *Application submittal.*
  - (1) An application will be considered complete and ready for processing only when it fully complies with the requirements of this article.
  - (2) If the application and preliminary plat are not accepted, the community development director must inform the applicant of the deficiencies and request the applicant to resubmit the application and preliminary plat with the additional information.
- (g) *Referral of preliminary plat for review.*
  - (1) Upon official acceptance of the application and the preliminary plat, the community development department, public works, and any other city or county department the community development director determines should be consulted for the particularities of the proposed subdivision, shall review the preliminary plat. As part of its review, each such department and receiving entity must make comments and recommendations regarding any required changes necessary to comply with all applicable regulations.
  - (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 preliminary plat has been approved or notify the applicant that revisions to the preliminary plat are required.
  - (3) If a preliminary plat is not approved within 180 days of the official acceptance of the application, the application and preliminary plat is considered withdrawn without further action by the city. The community development director must approve the preliminary plat if the application and



preliminary plat conform to all requested revisions, the requirements of this Code and state law and must deny the preliminary plat if the application and preliminary plat do not conform to all requested revisions, the requirements of this Code or state law.

(Ord. No. 2013-10-14, 1(Exh. A § 16-13.10), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2019-01-01, § II, 1-28-2019)

**Editor's note**— Section 1 of Ord. No. 2015-01-04, adopted Jan. 26, 2015, amended, renumbered and retitled former § 16-206, "Sketch plat/preliminary plat," as § 16-187 to read as herein set out.

Sec. 16-188. - Public notice.

- (1) The applicant must place a public notification sign on the site of the proposed subdivision. The sign must remain in place of at least 30 days. The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the preliminary plat may not be approved until the applicant has properly posted the required notification sign.
- (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 preliminary plat.
- (3) Following public notice period and determination that the application complies with all city codes, the community development director is authorized to approve or disapprove the proposed preliminary plat in accordance with the approval criteria of this article.

(Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2019-01-01, § III, 1-28-2019)

Sec. 16-189. - Compliance with design and improvement standards and approval criteria.

- (a) Subdivisions eligible for processing as major subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in article IV of this chapter.
- (b) Approval criteria.
  - (1) The community development director may not approve a preliminary 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 protect floodplains, watercourses, wetlands, exceptional or specimen trees 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, 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 the preliminary plat procedures 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 preliminary plat and related comments, and where, in the judgment of the community development director, the preliminary 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 preliminary plat shall stand approved. The following wording for approval must be shown on the preliminary plat:

"This preliminary 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"

- (c) *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.
- (d) *Lapse of approval.* The preliminary plat expires 24 months from the date of its approval. If more than 50 percent 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.
- (e) *Preliminary plat amendments.* If the approved preliminary plat is amended or altered by the applicant, without an approved variance, after approval as a preliminary plat, then the applicant is required to resubmit the revised preliminary plat and begin anew the application process contained in this division.

(Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2019-01-01, § IV, 1-28-2019)

#### Sec. 16-190. - Appeals.

The decision of the community development director to approve or disapprove the preliminary plat may be appealed ~~in accordance with procedures and conditions in Chapter 16, Article V, Division 2. to city council by request in writing to the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the community development director is final. The 30-day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. 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's decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.~~

(Ord. No. 2015-01-04, § 1, 1-26-2015)

Secs. 16-191—16-200. - Reserved.

Sec. 16-114. - Enforcement and penalties.

- (a) *Enforcement.* It is city arborist's and his/her designee duty to enforce this section. The city arborist and his/her designee 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.
- (b) *Violation and penalties.* The person, firm, or corporation responsible for violating any of the provisions of this section may be deemed guilty of an ordinance violation. Each tree cut, damaged, or poisoned shall constitute a single offense and the responsible party shall be subject to a fine up to \$1,000.00 per tree. The Dunwoody Municipal Court has jurisdiction to try offenses to these regulations.
- (c) *Appeal.* Any person aggrieved or affected by any decision of the city arborist or his/her designee relating to the application of this section may appeal to the community development director for relief or reconsideration within 30 days from the date of the adverse determination by the city arborist. Decision by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) ~~subject to the process established in Sec. 16-33 by filing a request with the community development director within 30 days of the community development director's decision.~~

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.90), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2017-10-19, § I, 10-9-2017; Ord. No. 2018-07-13, § I, 7-23-2018)

Sec. 16-33. - Appeals of administrative decisions.

- (a) *Applicability.* The procedures of this division apply to appeals of administrative decisions authorized under these land development regulations in Article II.
- (b) *Authority to file.* Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by an administrative decision may appeal the decision.
- (c) *Application filing.* Decisions by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Appeal shall be in accordance with procedures and conditions of this division. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30-day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision.
- (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.
- (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.
- (f) *Hearing notice.* Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least 30 days before the date of the zoning board of appeals hearing.
- (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 of appeals 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.
- (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.
- (i) *Appeals.*
  - (1) Any person or entity authorized by section 16-33 (b) 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.

(2) 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.

- ~~(c) — *Application filing.* Decisions by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. Appeal shall be in accordance with procedures and conditions of this division. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30-day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision.~~
- ~~(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.~~
- ~~(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.~~
- ~~(f) — *Hearing notice.* Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least ten days before the date of the zoning board of appeals hearing.~~
- ~~(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.~~
- ~~(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.~~

(Ord. No. 2013-10-14, 1(Exh. A § 16-3.80), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)



The file ARTICLE 16 ORDINANCE.rtf is not available for viewing.

**AN ORDINANCE TO AMEND CHAPTER XXVII (ZONING ORDINANCE) OF THE CITY OF DUNWOODY CODE OF ORDINANCES; TO AMEND LANGUAGE FOR EXPIRED AND OBSOLETE ZONING DISTRICTS, REAR SETBACK MEASUREMENT, O-I ALLOWED USES, USE DETERMINATIONS, RESIDENTIAL INFILL, RELATIVE'S RESIDENCES, POSTED NOTICES, PERIMETER CENTER OPEN SPACE, AND APPEALS; TO ADD A NEW SECTION FOR CONCURRENT VARIANCES AND SPECIAL EXCEPTIONS;**

**WHEREAS,** the City's Community Development Department has been charged with implementing and enforcing the Zoning Ordinance; and

**WHEREAS,** Staff has, in their duties, identified these necessary amendments to the Zoning Ordinance (ZO); and

**WHEREAS,** the proposed amendments support and uphold the health, safety, and welfare of the community; and

**WHEREAS,** the proposed amendments provide clarity, correct inconsistencies, and promote the goals of the 2020-2040 Comprehensive plan; and

**WHEREAS,** the City wishes to reintegrate the zoning regulations for R-CD and R-CH into the Zoning Ordinance (ZO) so as to make referencing said regulations convenient; and

**WHEREAS,** the City wishes to clarify how rear setbacks are determined so as to correspond with common planning practice; and

**WHEREAS,** the City wishes to allow small-scale retail in office buildings in the O-I zoning district so as to foster a business-friendly climate, a goal of the 2020-2040 Comprehensive Plan, and provide flexibility to legally market and rent space to a larger pool of tenants; and

**WHEREAS,** the City wishes to remove public notice requirements for use determinations due to the impracticality of enforcing such a standard; and

**WHEREAS,** the City wishes to clarify the Director's ability to make determinations regarding contextual regulations for lot size, width, frontage, and setbacks; and

**WHEREAS,** the City wishes to amend the posted notice requirements for special administrative permit to only require web posting; and

**WHEREAS,** the City wishes to remove the requirement that developments with a floor-area-ratio (FAR) over 12 to provide an additional type of open space and to remove the definition for floor-area-ratio due to the negligible applicability of this requirement and to simplify the Zoning Ordinance; and

**WHEREAS,** the City wishes to amend the appeals process for telecommunication facilities on private property so as to make the appeals process consistent across Chapter XVI and Chapter XXVII of the Code of the City of Dunwoody; and

**WHEREAS,** the City wishes to establish a process for concurrent variances and concurrent special exceptions so as to allow Planning Commission and the City Council to consider and grant variances and special exceptions when applied for as part of a rezoning or special land use permit application, which will remove the need to go through two separate processes for development projects that require both a zoning action and a form of relief.

**NOW, THEREFORE,** the Mayor and City Council of the City of Dunwoody HEREBY ORDAIN that Chapter XXVII is amended as follows:

**Section I:** That Chapter 27 of the City Code is amended by adding a new appendix, Appendix A, to the end of Chapter 27 and by amending Chapter 27, Section 30 to read as follows:

Sec. 27-30. - Expired and obsolete zoning districts.

- (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 VI, division 3. The R-CH zoning district regulations in effect in the county on April 12, 1999, as provided in Appendix A, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CH.
- (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 VI, division 3. The R-CD zoning district regulations in effect in the county on April 12, 1999, as provided in Appendix A, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CD.

- ~~(c) *PC zoning.* Lots classified in the PC 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 PC zoning district. The PC 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 PC. Lots zoned PC may be rezoned in accordance with the zoning map amendment procedures of article VI, division 3.~~
- ~~(d) *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 VI, division 3.~~

**[Insert Appendix A at the end of Chapter 27]**

APPENDIX A. – EXPIRED AND OBSOLETE ZONING DISTRICTS

R-CH (SINGLE-FAMILY CLUSTER RESIDENTIAL) DISTRICT

1) Purpose and scope.

Except as provided in section 27-30, the R-CH regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the community development director, initiated by official action of the planning commission, or considered by the city council if such amendment or application seeks to have any lots in the city zoned R-CH. The R-CH regulations set forth in this division are codified solely for the purpose of complying with the requirements of section 27-30.

*(Comp. Ords. 2008, ch. 27, § 2H-1)*

2) Permitted uses.

Permitted uses are as follows:

- (a) Accessory uses and structures:
  - i) Accessory uses and structures incidental to any permitted use.
  - ii) Customary home occupation.
  - iii) Signs and outdoor advertising in accordance with the provisions of this chapter and the city's sign ordinance.
- (b) Agriculture and forestry: Temporary and portable sawmills.
- (c) Community facilities:

- i) Electric transformer station, gas regulator station and telephone exchange.
  - ii) Golf courses and clubhouses, private.
  - iii) Neighborhood recreation centers or swimming pools.
  - iv) Noncommercial club or lodge (except fraternal club or lodge).
- (d) Public uses.
  - i) Public utility facilities.
  - ii) Sewage treatment plants.
- (e) Dwellings:
  - i) Cluster housing subdivision.
  - ii) Dwelling, single-family.
  - iii) Dwelling, single-family attached.
  - iv) Mobile home, as an accessory structure to be used for security purposes.
  - v) Single-family attached subdivision.
- (f) Education:
  - i) Private or parochial elementary and high schools.
  - ii) Public schools.
- (g) Religious facilities:
  - i) Churches and other places of worship and accessory facilities.
  - ii) Convent or monastery.
- (h) Services, personal:
  - i) Personal care home, family.
  - ii) Personal care home, registered.
- (i) Transportation and storage: Automobile parking.

(Comp. Ords. 2008, ch. 27, § 2H-2)

### 3) Development standards.

- (a) *Minimum lot area.* There is no minimum lot area.
- (b) *Minimum lot width.* There is no minimum lot width at the building setback line.
- (c) *Minimum yard adjacent to public street.* The following are minimum requirements for yards that are adjacent to a public street:
  - i) The setback from major thoroughfares shall be 20 feet.
  - ii) The setback from minor thoroughfares shall be 20 feet.
  - iii) The setback from collector streets shall be five feet.
  - iv) The setback from other streets shall be five feet.
- (d) *Minimum rear yard.* There is no minimum rear yard, except that where a rear yard adjoins a project boundary, the minimum rear yard shall be 40 feet.
- (e) *Maximum height of structures.* The maximum height of any structure shall be 35 feet.
- (f) *Minimum side yard.* There is no minimum side yard required.
- (g) *Buffer.* No buffer is required.
- (h) *Open space.* The required open space is 20 percent.
- (i) *Minimum floor area.* The minimum floor area provided shall be 1,400 square feet.
- (j) *Density.* The maximum density shall be three units per acre.

(Comp. Ords. 2008, ch. 27, § 2H-3)

## R-CD (RESIDENTIAL COMMUNITY DEVELOPMENT) DISTRICT

Purpose and scope.

- 1) Except as provided in section 27-30, the R-CD regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the community development director, initiated by official action of the planning commission, or considered by the city council if such amendment or application seeks to have any lots in the city zoned R-CD. The R-CD regulations set forth in this division are codified solely for the purpose of complying with the requirements of section 27-30.

(Comp. Ords. 2008, ch. 27, § 2I-1)

### 2) Permitted uses.

Permitted uses are as follows:

#### (a) Accessory uses and structures:

- i) Accessory uses and structures incidental to any permitted use.
- ii) Customary home occupation.
- iii) Signs and outdoor advertising in accordance with the provisions of this chapter and the city's sign ordinance.

#### (b) Agriculture and forestry:

- i) Livestock and poultry.
- ii) Riding stable.
- iii) Temporary or portable sawmill.
- iv) Pigeons.

#### (c) Animal care facilities: Pigeons.

#### (d) Community facilities:

- i) Electric transformer station, gas regulator station and telephone exchange.
- ii) Golf courses and clubhouses, private.
- iii) Neighborhood recreation centers or swimming pools.
- iv) Noncommercial club or lodge (except fraternal club or lodge).
- v) Parks, private.
- vi) Public uses.
- vii) Public utility facilities.
- viii) Sewage treatment plants.

#### (e) Dwellings:

- i) Cluster housing subdivision.
- ii) Community development subdivision.
- iii) Dwelling, multifamily units and apartment developments.
- iv) Dwelling, single-family.
- v) Dwelling, single-family attached.
- vi) Dwelling, two-family.
- vii) Mobile home, as an accessory structure to be used for security purposes.
- viii) Single-family attached subdivision.



## (f) Education:

- i) Day nurseries and kindergartens.
- ii) Private or parochial elementary and high schools.
- iii) Public schools.

## (g) Religious facilities:

- i) Churches and other places of worship and accessory facilities.
- ii) Convent or monastery.

## (h) Retail trade:

- i) Planned shopping developments, as part of a community development subdivision.
- ii) Retail trade, personal services and offices, as part of a community development subdivision.

## (i) Services, personal:

- i) Personal care home, family.
- ii) Personal care home, registered.

## (j) Transportation and storage: Automobile parking.

(Comp. Ords. 2008, ch. 27, § 2I-2)

## 3) Development standards.

(a) *Minimum lot area.* The minimum lot area shall be 50 acres for residential development and 100 acres for development with NS or OI uses.

(b) *Density of development and types of residential use.* The maximum number of dwelling units permitted in a community development subdivision shall not exceed 4½ dwelling units per net residential acre (total developable acreage minus that to be used for NS and OI uses as provided in this section). Not more than 40 percent of the dwelling units shall be multifamily. Not less than 60 percent of the dwelling units shall be single-family. One-half of the single-family dwelling units may be attached, but not less than one-half of the single-family lots within a cluster housing subdivision.

(c) *Minimum development requirements.* The minimum lot area, width, and yard requirements permitted within a community development subdivision for single-family lots, multifamily dwellings and business lots shall be as follows:

Lot and Yard	Single-Family Lots	Multifamily Dwellings Lots	Business Lots (feet)
Minimum lot area	6,000 sq. ft.	None	None
Minimum lot width	60 ft.	75 (minimum project frontage on public street)	75
Minimum yard adjacent to public street:			
Major thoroughfare	30 ft.	30	50

Minor thoroughfare	25 ft.	25	40
Collector street	10 ft.	10	40
Other street	10 ft.	10	40
Minimum side yard	0 to 7.6 ft.; 30 ft. from project boundary with a minimum of 15 feet between units unless two units are attached by a common wall; however, the attachment of a wall of one unit and the wall of an enclosed courtyard shall not be considered attached housing	10	20
Minimum rear yard	30 ft. (40 ft. on exterior lots) The development standards for single-family attached units shall be as provided in this chapter	30	40

(d) *Minimum floor area.* The minimum floor area shall be as follows:

- i) For a single-family dwelling, 1,200 square feet.
- ii) For a single-family attached dwelling, 1,000 square feet.
- iii) For a two-family dwelling containing:
  - (1) One bedroom, 600 square feet.
  - (2) Two bedroom, 750 square feet.
  - (3) Three or more bedrooms, 1,050 square feet
- iv) For an apartment containing:
  - (1) One bedroom, 650 square feet.
  - (2) Two bedrooms, 800 square feet.
  - (3) Three or more bedrooms, 1,000 square feet.

Notwithstanding the above minimum floor area requirements, a maximum of 20 percent of the total units constructed in any single development of more than one building may be one bedroom units having floor areas of less than 650 square feet but not less than a minimum floor area of 520 square feet.

(e) *Maximum height of structures.* The maximum height of any structure shall be 35 feet.

(f) *Buffer.* A buffer of at least 20 feet is required when the lot adjoins a developed single-family detached subdivision.

- (g) *Open space requirement.* Not less than 20 percent of the subdivision shall be set aside for open space purposes. A homeowner's association created by the developer, by recorded covenants, declarations and restrictions running with the land, shall preserve and maintain for the use and benefit of the owners and occupants of lots and dwellings within the subdivision the lands set aside for open space, parks and recreational use. The book and page in which such covenants and declarations are recorded shall be shown on the final plat of the subdivision. Required yards, streets, drives, parking areas and other similar uses shall not be counted toward the minimum open space requirements. Not more than 50 percent of the land reserved for open space purposes shall be within a flood plain. The requirement that open space be deeded to and maintained by a homeowner's association may be waived by the city for that portion of an R-CD district in which detached single-family housing is constructed. This waiver and survey to which there is entered a covenant by the developer at the minimum open space requirement shall be applied to individual lots within the subdivision. Dedication of open space to the city may also satisfy the open space requirement.
- (h) *Neighborhood shopping and office-institution uses.* The developer of a community development subdivision of not less than 100 acres may set aside not more than five percent of the total area for neighborhood shopping and office-institution uses permitted herein. However, retail liquor stores shall not be permitted unless these uses are housed within a planned shopping center constructed within a minimum of 10,000 square feet in a continuous facade. Not more than 50 percent of the five percent maybe reserved and developed for NS uses. When 100 or more dwelling units have been constructed within the subdivision, then NS uses may be established under the following conditions:
- i) Not more than 240 square feet of floor space for retail sales and services shall be permitted for each ten dwelling units in the subdivision. There shall be not less than four square feet of business lot area for each one square foot of permitted retail floor area. Land may be reserved for the maximum permitted retail development, but the permitted square feet of retail area may be built only as the required ratio of dwelling units has been constructed.
  - ii) Retail sales and services shall be constructed entirely within a wholly and permanently enclosed building or buildings, which shall be of an architectural design compatible with the residential structures within the subdivision.
  - iii) Outdoor storage or displays of any kind shall be prohibited.
  - iv) Signs shall be limited to an identification sign for each point of entry to a store. The signs shall not exceed four square feet in area, shall not be directly lighted and shall be attached flat against the face of the building.
  - v) Off-street parking and loading spaces shall be provided as required by this chapter.

- vi) This use shall only be placed on lots specifically designated for these purposes on the plat of the subdivision, and shall be located at least 100 feet from any residential structure. Accessory parking and loading areas shall be located at least 50 feet from any residential structure.
- vii) When shopping facilities within a planned unit development subdivision contain not less than 40,000 square feet of floor area, then the development standards established by this chapter for planned shopping developments shall apply.
- viii) The sides, rear or front of a lot developed for retail sales and services shall neither abut nor be across the street from property lying outside the subdivision, and shall be located at least 300 feet from any exterior subdivision property line.
- ix) Office-institution development uses shall:
  - (1) Meet all IO district development standards and requirements.
  - (2) Be limited to 300 square feet of floor space for each ten dwelling units, and not less than four square
  - (3) area for each one square foot of floor area.
  - (4) Be constructed only as the required ratio of dwelling units has been constructed.
  - (5) Meet all applicable requirements of this subsection except subsections (h)(1) and (h)(7) of this section.
- x) Office-institution uses permitted by this subsection shall include:
  - (1) Cultural facilities, including art galleries, museums, legitimate theatres, libraries and other uses similar in character to those listed.
  - (2) Offices of health service practitioners, physicians, surgeons, dentists and dental surgeons, osteopathic physicians, chiropractors and other licensed practitioners similar to those listed.
  - (3) Health service clinics, including a pharmacy as an accessory use.
  - (4) General office uses, including sales representatives, legal services, engineering and architectural, accounting, auditing, bookkeeping, finance, real estate, insurance and others similar to those listed.
- (i) *Development plan.* The development plan for the subdivision shall be processed in conformance with the requirements of the city subdivision regulations. The use to be made of each lot shall be marked on the plat. The plat shall also state the maximum number of dwelling units authorized for the subdivision. When approved, the final plat shall be recorded in the same manner as other subdivision plats, along with the necessary covenants and restrictions applicable to the development. In addition, a faithful reproduction of the plat shall be predominantly displayed within the subdivision until such time as the subdivision is fully developed.
- (j) *Private deed covenants.* The subdivision shall be covered by private deed covenants running with the land which ensure its continuance in accordance with approved plans and development.

(Comp. Ords. 2008, ch. 27, § 2I-3)

**Section II:** That Chapter 27, Section 58 be amended as follows:

Sec. 27-58. - Lot and building regulations.

- (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.

...

[4] ~~Corner lots are subject to street setbacks along all street frontages and to interior side setbacks along all other lot lines.~~ Corner lots are subject to street setbacks along all street frontages. The rear setback is measured from the property line parallel to the lot frontage (see Section 27-572), and interior side setbacks are applicable along all other lot lines.

...

**Section III:** That Chapter 27, Section 72 be amended as follows:

Sec. 27-72. - Uses allowed.

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See [subsection] 27-111(4) for information about how to interpret the use table.

USES	DISTRICTS									Supplemental Regulations
	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M	
<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>										
...										
Other food and beverage retail sales	<u>P</u> <u>[1]-</u>	-	P	P	P	P	P	P	P	

...										
Other retail sales	<u>P</u> [1]-	-	P	P	P	P	P	P	-	
...										
Taxi stand and taxi dispatching office	-	-	-	-	-	P	P	-	P	

[1] Within the O-I zoning district, Other food and beverage sales and Other retail sales are limited as follows:

- a. Not permitted in any residential buildings or buildings with a residential component.
- b. Allowed only as an accessory use on the ground floor of a multi-story office or institutional building.
- c. Maximum floor area of the tenant suite is limited to 2,000 square feet.

**Section IV:** That Chapter 27, Section 111 be amended as follows:  
Sec. 27-111. - General.

...

(5) *Determination of use categories and subcategories.*

- a. The community development director is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
- b. 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. ~~Any decision made by the community development director to authorize a use in a zoning district where it is not specifically authorized shall be published, and notice sent to adjacent property owners, per paragraph (5)e. below.~~ In making such determinations, the community development director is authorized to consider all of the following:
  - 1. The types of activities that will occur in conjunction with the use;
  - 2. The types of equipment and processes to be used;

3. The existence, number and frequency of residents, customers or employees;
  4. Parking demands associated with the use; and
  5. Other factors deemed relevant to a use determination.
- c. 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.
  - d. 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.
  - e. ~~Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by the decision of the community development director on use determinations may appeal the decision within 30 days of the community development director's decision. Decisions pertaining to "uses" as conditioned in [subsection] b. above will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. Appeal shall be in accordance with the appeal procedures of article V, division 8.~~

**Section V:** That Chapter 27, Section 147 be amended as follows:

Sec. 27-147. - Residential infill.

...

- (7) *Determination:* ~~The community development director is authorized to determine whether the provisions of the contextual regulations for lot size, width, frontage and setbacks apply to the subdivision of land and/or construction of a single family home on a lot. The community development director is authorized to determine whether the provisions of the contextual regulations for lot size, width, frontage and setbacks apply to the construction of a single family home on a lot, whether the lot(s) is part of a proposed subdivision or one that was previously recorded. In this capacity, the director may determine whether a proposed subdivision of land is subject to the same regulations.~~ Findings used in this determination shall include, but not be limited to, the following:

Whether the lot(s):

1. Is significantly different in character and/or contrary to the prevailing orientation of lots outside of the subdivision, (within the immediate surrounding or adjacent area); or

2. Creates multiple new lots or lot/block configurations which create a different context; or
3. Creates new streets and alignments of lots; or
4. Alters other characteristics of the property such that the lot(s) represent a different context, are altered visually or physically from the characteristics of the adjacent/previous neighborhood and such conditions render the application of the contextual regulations for lot size, width, frontage, and setback impractical, unreasonable, or unwarranted.

The owners of property adjacent to the subject lot(s) will be notified of and may appeal the decision of the community development director per article V of this chapter.

**Section VI:** That Chapter 27, Section 174 be amended as follows:

Sec. 27-174. - 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:

- (1) The real property owner must live in the detached house.
- (2) Relatives must be related by blood, marriage or law.
- (3) The area of the second kitchen facility may not exceed the area of the main kitchen facility.
- (4) 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.
- (5) 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.~~

**Section VII:** That Chapter 27, Section 439 and Chapter 27, Section 442 be amended as follows:

Sec. 27-439. - Posted notice.

A sign must be placed in a conspicuous location on the subject property at least 30 days before the date of the community development director's decision on the special administrative permit request. 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. Decisions, once made, will be posted on the City's webpage.



...

## Sec. 27-442. - Appeals.

Decisions by the community development director made pursuant to this division may be appealed in accordance with procedures and conditions in Chapter 27, Article 8.~~to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the city's web page and in a newspaper of general circulation within the city. Appeal shall be in accordance with procedures and conditions in chapter 27, article V, division 8. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The ZBA decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.~~

**Section VIII:** That Figure 27-104-3 in Chapter 27, Section 104 be replaced and amended and Chapter 27, Section 574.5 be removed as follows:

## Sec. 27-104. - Districts.

...

(c) *PC-2 district.* Requirements for this district are provided in figure 27-104-3, PC-2 district requirements.

(1) *Description and intent.* The PC-2 district is meant primarily for employment uses, residential buildings, and limited shopfront retail and services.

**[Delete Figure 27-104-3. and replace with table below]**

PC-2 DISTRICT REQUIREMENTS			Reference
<b>PERMITTED BUILDING TYPES</b>	<b>Shopfront</b>	<ul style="list-style-type: none"> <li>Permitted on Primary Street frontages only. Refer to Figure 27-98-2 Street Types Map.</li> </ul>	27-105 Building Types
	<b>General</b>	<ul style="list-style-type: none"> <li></li> </ul>	
	<b>Townhouse</b>	<ul style="list-style-type: none"> <li></li> </ul>	
	<b>Detached House</b>		
	<b>Civic</b>	<ul style="list-style-type: none"> <li></li> </ul>	
<b>USE MIX</b>	<b>Minimum Mix of Uses</b>	No mix required	27-104 (f) Uses
<b>HEIGHT</b>	<b>Minimum</b>	1 story; single story buildings shall be 18 to 24 feet in height.	27-230 for
	<b>Maximum:</b> less than 100 feet from a lot line	3 stories or 35 feet, whichever is less	

	adjacent to single family zoning district		transition yards; 27-105 (a) (9) e for perimeter buffer; 27-105 (b) (2) for floor-floor heights per Building Type
	<b>Maximum:</b> between 100 feet and 500 feet from a lot line adjacent to single family zoning district	5 stories or 70 feet, whichever is less	
	<b>Maximum:</b> greater than 500 feet to a lot line adjacent to single family zoning district	14 stories or 180 feet, whichever is less	
	<b>Additional Height:</b> in any location	Additional height may be approved as a condition of rezoning or, if already zoned, with a special land use permit.	
<b>STREETS &amp; BLOCKS</b>	<b>Streets &amp; Block Configurations</b>	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Type Map	27-98 (c) Streets & Blocks
	<b>Minor Parkway</b>	•	27-98 (b) Street Types
	<b>Primary Street</b>	•	
	<b>Secondary Street</b>	•	
	<b>Secondary Street Narrow</b>		
<b>SITE COVERAGE</b>	<b>Maximum Impervious Cover</b>	65 percent	27-621 Terms Defined
	<b>Maximum Impervious plus Semi-Pervious Cover</b>	75 percent	
<b>OPEN SPACE REQUIREMENTS</b>	One Open Space Type is required within 1/4 of a mile of the principal entrance(s) to each building. For developments over 18 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size. <del>For developments with a floor area ratio over 12, one additional Green or Park Open Space Type is required.</del>		27-106 Open Space Types
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		

	<b>Plaza</b>	•	
	<b>Green</b>	•	
	<b>Commons</b>	•	
	<b>Park</b>	•	

- = permitted

...

~~Sec. 27-574.5. Floor area ratio (FAR).~~

~~A building's floor area ratio (FAR) is calculated by dividing the total floor area of all buildings on a lot by total area of the lot on which the buildings are located.~~

~~(Ord. No. 2017-04-07, § 5, 4-11-2017)~~

**Section IX:** That Chapter 27, Section 304 be amended and Chapter 27 be further amended by adding two new code sections, Section 27-402 and Sec. 27-425, as follows:

Sec. 27-304. - 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	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 V, Division 2	R	-	-	R	<R>	<DM>
Zoning Ordinance Text and Map Amendments	Article V, Division 2	R	-	-	R	<R>	<DM>
Special Land Use Permits	Article V, Division 3	R	-	-	-	<R>	<DM>

Variances	Article V, Division 5	R	-	<DM>	-	-	=
<u>Concurrent Variances</u>	<u>Article V, Division 5</u>	<u>R</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>&lt;R&gt;</u>	<u>&lt;DM&gt;</u>
Special Exceptions	Article V, Division 6	R	-	<DM>	-	-	=
<u>Concurrent Special Exceptions</u>	<u>Article V, Division 6</u>	<u>R</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>&lt;R&gt;</u>	<u>&lt;DM&gt;</u>
Administrative Permits	Article V, Division 7	DM	-	-	-	-	-
Appeals of Administrative Decisions	Article V, Division 8	-	-	DM	-	-	-
Development Permits	Article V, Division 9	DM	R[1]	-	-	-	-

...

**[Insert new code sections]**Sec. 27-402 – Concurrent variances.

- a) Applicability. This section applies to variances sought simultaneously with a zoning map amendment or with a special land use permit.
- b) Authority. The city council may consider variances that would otherwise require approval under Article V, Division 6. The Planning Commission shall also hear and make recommendations on concurrent variances.
- c) Public hearing notices. Public notification for concurrent variances shall follow the standards set in Section 27-331 for concurrent variances sought simultaneously with a zoning map amendment or the standards set in

Section 27-356 for concurrent variances sought simultaneously with a special land use permit.

d) Public hearings and decision.

(1)The planning commission shall make a recommendation to the city council on the requested variance in addition to its recommendation on the companion map amendment or special land use permit application.

(2)The city council shall take action on the concurrent variance request by incorporating each concurrent variance into the motion for action on the companion map amendment or special land use permit application.

e) Review and approval criteria. In taking action on concurrent variance requests, the city council shall apply the variance review and approval criteria of section 27-397. The planning commission's review shall also be based on the variance review and approval criteria of section 27-397.

f) No duplicative review. A variance request to the zoning board of appeals may not be considered simultaneously with a concurrent variance request.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.110), 10-14-2013)

Secs. 27-40~~32~~—27-415. - Reserved.

Sec. 27-425 – Concurrent special exceptions.

a) Applicability. This section applies to special exceptions sought simultaneously with a zoning map amendment or with a special land use permit.

b) Authority. The city council may consider special exceptions that would otherwise require approval under Article V, Division 6. The Planning Commission shall also hear and make recommendations on concurrent special exceptions.

c) Public hearing notices. Public notification for concurrent special exceptions shall follow the standards set in Section 27-331 for concurrent special exceptions sought simultaneously with a zoning map amendment or the standards set in Section 27-356 for concurrent special exceptions sought simultaneously with a special land use permit.

d) Public hearings and decision.

(1)The planning commission shall make a recommendation to the city council on the requested special exception in addition to its recommendation on the companion map amendment or special land use permit application.

(2)The city council shall take action on the concurrent special exception request by incorporating each concurrent special exception into the motion for action on the companion map amendment or special land use permit application.

e) Review and approval criteria. In taking action on concurrent special exception requests, the city council shall apply the special exception review and approval criteria of section 27-421. The planning commission's review shall also be based on the special exception review and approval criteria of section 27-421.

f) No duplicative review. A variance request to the zoning board of appeals may not be considered simultaneously with a concurrent special exception request.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.90), 10-14-2013)

Secs. 27-4265—27-435. - Reserved.

**Section X:** That Chapter 27, Section 150.1 be amended as follows:

Sec. 27-150.1. - Telecommunication facilities and structures on private property.

...

(c) *Review process.*

...

~~(6) Decisions of the community development director denying an administrative permit may be appealed in accordance with the procedures and conditions in Chapter 27, Article V, Division 8. to the mayor and city council within ten days of the written decision and shall follow article V, division VIII of this chapter.~~

~~(7) All decisions of the mayor and city council pursuant to this section may be appealed by the applicant by petition for writ of certiorari with the DeKalb County Superior Court in accordance with state law.~~

**SO ORDAINED**, this \_\_\_\_ day of \_\_\_\_\_, 2021.

Approved:

\_\_\_\_\_  
Lynn Deutsch, Mayor

ATTEST:

Approved as to Form and Content:

---

Sharon Lowery, City Clerk (Seal)

---

City Attorney

STATE OF GEORGIA  
CITY OF DUNWOODY

**ORDINANCE 2021-XX-XX**





4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Madalyn Smith, Senior Planner

**Date:** September 13, 2021

**Subject:** Text Amendments  
Chapter 8, 16, 26, and 27

---

### **ITEM DESCRIPTION**

The general purpose of the proposed text amendments is to clarify vague language and correct inconsistencies.

### **PLANNING COMMISSION REVIEW**

On its August 10, 2021 meeting, the Planning Commission reviewed the proposed text amendments to Chapters 8, 16, 26, and 27. The amendments were discussed chapter by chapter and four separate motions were made. The Commission generally expressed support of all proposed changes.

Chapter 8: The Commission recommended approval with a 6-0 vote.

Chapter 16: The Commission recommended approval with a 6-0 vote.

Chapter 26: The Commission recommended approval with a 6-0 vote.

Chapter 27: The Commission recommended approval, subject to an amendment to Section 150.1, with a 6-0 vote. The Commission recommended the amendment to Section 150.1 reference the code section detailing the appeals process.

### **DISCUSSION**

#1 - Section 8-27, Design Professional Requirements:



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

This item is a request to require a licensed engineer or architect to seal plans for residential structures. Currently, all residential structures are exempt from this requirement. However, new single-family detached homes in Dunwoody are typically 3,000 to 5,000 SF, well above the national average for the United States, and this amendment is necessary to properly ensure the safety and welfare of existing and future Dunwoody residents.

#### #2 - Section 8-27, Time Limitations:

This item is a request to clarify the language for expired permits and specify a path to reinstate expired permits. The existing language does not address how to reinstate permits after they have been issued. This amendment aligns the code with established department policy. This amendment specifies that there is an applicable fee to reinstate an issued permit. A companion resolution is included in this package specifying this change.

#### #3 - Section 16-29, Time Limitations:

This item is a request to add time limitations to development permits. This is currently not specified in the code and would reflect the language as seen in Section 8-27.

#### #4 - Section 26-8, Obstruction of the Right-of-Way:

This item is a request to add regulations that outlaw obstruction in the Right-of-Way. Obstruction of the right of way could include, for example, overgrown hedges spilling out onto the sidewalks or road, which creates an obstacle for pedestrians and can interfere with the line of sight for drivers. Obstruction of the right-of-way poses a threat to public safety and the proposed amendment is a common provision in other municipalities to rectify this issue.

#### #5 - Section 27-30, Expired and Obsolete Zoning Districts:

This item is a request to add an appendix containing the lot and building regulations for the R-CH (Single-Family Cluster Residential) and R-CD (Residential Community Development) zoning districts. Dunwoody has 2 expired zoning districts, R-CH and R-CD that still exist on the zoning map. There are 8 remaining subdivisions (~420 lots) that maintain an R-CH or R-CD zoning classification, but properties may no longer rezone to R-CH or R-CD. The Code acknowledges the existence of these subdivisions, but the zoning regulations that govern these properties was removed. Staff proposes to reintegrate these regulations, with no changes to their previous text, for ease of reference.



#### #6 - Section 27-58, Rear Setback on Corner Lots:

This item is a request to amend the lot regulations for single-dwelling districts. As written, corner lots are not subject to a rear setback, only street and interior side setbacks. This provision, enacted in 2014, conflicts with standard practice, as well as most Dunwoody subdivision plats. The amendment redefines the rear setback as the lot line parallel to the lot frontage. Staff recommends that the code be updated to reflect this standard method for determining a rear setback.

#### #7 - Section 27-72, O-I Allowed Uses:

This item is a request to amend the allowed uses in the O-I zoning district. Staff was prompted to propose this amendment after receiving a business license request for a jewelry store located in an office building in the O-I zoning district, which was initially denied.

Currently, retail is not permitted in the O-I district, but staff proposes to allow *Other food and beverage sales* and *Other retail sales* subject to the following conditions:

- a. Not permitted in any residential buildings or buildings with a residential component.
- b. Allowed only as an accessory use on the ground floor of a multi-story office or institutional building.
- c. Maximum floor area of the tenant suite is limited to 2,000 square feet.

Conditions (a) and (b) ensure that retail uses do not encroach into residential areas. The O-I district has several multi-family residential buildings that are considered legal nonconforming ("grandfathered-in"). Condition (c) is intended to encourage a boutique retail experience, rather than attracting big-box or large chain retailers. The overall purpose of the conditions is to ensure that the character of the O-I district remains the same while also allowing property owners of multi-story offices complexes flexibility to legally market and rent space to a larger pool of tenants. This would be a major benefit given the recent high commercial vacancy rates. Staff recommends approval of this amendment.

#### #8 - Section 27-111, Use Determinations:

This item is a request to amend Section 27-111 by removing public notice requirement for use determinations. Section 27-111 part (5) details the criteria the Director uses to make use determinations and requires all decisions to be published and a notice sent out to adjacent property owners.



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

Use determinations are an everyday occurrence and a normal part of the general operations of a planning and zoning division. It would be an impossible undertaking to provide public notification for every use determination. For these reasons, staff recommends that this requirement be removed from Section 27-111.

#9 - Section 27-147, Residential Infill:

This item is request to amend the Director's ability to make determinations whether contextual regulations for lot size, width, frontage, and setbacks apply. The current text is imprecise but the intention of the code is to allow flexibility in the application of contextual regulations. It is staff's opinion that the proposed amendment more clearly communicates the intention of the code and recommends approval without changing any of the applicable standards.

# 10 - Section 27-174, Relative's Residences:

This item is a request to remove a sentence from Sec. 27-174, which governs relative's residences. The existing code stipulates that a second kitchen facility may be constructed in a detached house for the exclusive use of relatives of the property owner; it also stipulates that the unit must be removed once it is vacated. The intent of this stipulation is to prevent the relative's residence from being rented by someone outside the household once the relative vacates. However, this section of the code is logistically challenging to enforce, as well as redundant. The residential use category is already written to prevent two households from living on a property zoned for single family residential use. For this reason, staff recommends approval of the amendment to remove the described provision.

# 11 - Section 27-439 & 27-442, Posted Notice for Special Administrative Permits:

This item is a request to amend the posted notice requirements for Special Administrative Permits.

Staff recommends adding a sentence to Sec. 27-439 specifying that decisions will be posted on the City's webpage. This is an already established policy staff follows.

Staff recommends removing the requirement in Sec. 27-442 that decisions must be published in the newspaper for Special Administrative Permits. Since decisions are posted online, it is redundant.

# 12 - Section 27-104 & Section 27-574.5, Perimeter Center Open Space:



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

This item is a request to amend the Perimeter Center regulations by removing the requirement that developments with a floor-area-ratio (FAR) over 12 to provide an additional type of open space and to remove the definition for floor-area-ratio.

This amendment would have no effect on the amount of open space required, just the type. There are 4 types of open space defined: plaza, green, commons, and park. The requirement for an additional type of open space is unnecessary for several reasons. First, an FAR of 12 is very high and very few developments, if any, would reach that. This regulation also has little value, since the maximum types of open space that can be used to meet the requirement is two. This is also the only requirement in the code that utilizes FAR; the City does not specify a maximum FAR, instead we use maximum lot coverage ratios. If FAR is removed from the Perimeter Center regulations, the definition in Sec. 27-574.5 should be removed as well.

#### # 13 - Section 27-402 & Section 27-425, Concurrent Variances & Concurrent Special Exceptions:

This item is a request to include regulations for concurrent variances and concurrent special exceptions. This allows the Planning Commission and the City Council to consider and grant variances and special exceptions when applied for as part of a rezoning or special land use permit application. This removes the need to go through two separate processes for development projects that require both a zoning action and a form of relief.

This amendment would not change the criteria for variances or special exceptions. The Planning Commission and the City Council would simply apply the regular approval criteria. When making its recommendation, the Planning Commission will make a recommendation for each concurrent variance or each concurrent special exception with its recommendation for the rezoning or the special land use permit. The City Council would then include the concurrent variance or concurrent special exception as a zoning condition.

#### # 14 - Appeals:

This item is a request to amend multiple sections in multiple chapters of the code related to appeals. Overall, the goal of these amendments is to establish a consistent procedure and timeline for all appeals, for the benefit of both applicants and staff.



4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338  
dunwoodyga.gov | 678.382.6700

There is an established, standard process for requesting appeals in Chapter 27, Article V, Division VIII (Sec. 27-456 to 464). This section establishes that those aggrieved by an administrative decision, i.e. the issuance of a permit, the issuance of a license, or a determination by the director, may appeal to the Zoning Board of Appeals.

Sec. 27-150.1 contradicts the established process by specifying that those appealing the decision to deny an administrative permit for telecommunication facilities must be brought before the mayor and city council. Staff recommends that the contradicting portion of Sec. 27-150.1 be removed and that appeals follow the established procedure.

In Chapter 16, Land Development Regulations, there is no standard process for appeals. There is an appeals process specified in section 16-114, 16-190, 16-202, 16-222, and 16-272. The sections contradict one another and the timelines do not make sense. These sections will be amended to reference the standard appeals process.

Staff recommends to amend Section 16-33 and add a new division: Chapter 16, Article V, Division 2. The amended Section 16-33 and new Division 2 will establish a standard process to appeal administrative decisions that were made based on Chapter 16's regulations. These sections mirror the process detailed in Chapter 27.

Appeals to decisions made in accordance with article II will follow the procedure detailed in Section 16-33. Appeals to decisions made in accordance with article III or IV will follow the procedure detailed in article V, division 2.

## APPENDIX A. – EXPIRED AND OBSOLETE ZONING DISTRICTS

## R-CH (SINGLE-FAMILY CLUSTER RESIDENTIAL) DISTRICT

## 1) Purpose and scope.

Except as provided in section 27-30, the R-CH regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the community development director, initiated by official action of the planning commission, or considered by the city council if such amendment or application seeks to have any lots in the city zoned R-CH. The R-CH regulations set forth in this division are codified solely for the purpose of complying with the requirements of section 27-30.

*(Comp. Ords. 2008, ch. 27, § 2H-1)*

## 2) Permitted uses.

Permitted uses are as follows:

- (a) Accessory uses and structures:
  - i) Accessory uses and structures incidental to any permitted use.
  - ii) Customary home occupation.
  - iii) Signs and outdoor advertising in accordance with the provisions of this chapter and the city's sign ordinance.
- (b) Agriculture and forestry: Temporary and portable sawmills.
- (c) Community facilities:
  - i) Electric transformer station, gas regulator station and telephone exchange.
  - ii) Golf courses and clubhouses, private.
  - iii) Neighborhood recreation centers or swimming pools.
  - iv) Noncommercial club or lodge (except fraternal club or lodge).
- (d) Public uses.
  - i) Public utility facilities.
  - ii) Sewage treatment plants.
- (e) Dwellings:
  - i) Cluster housing subdivision.
  - ii) Dwelling, single-family.
  - iii) Dwelling, single-family attached.
  - iv) Mobile home, as an accessory structure to be used for security purposes.
  - v) Single-family attached subdivision.
- (f) Education:
  - i) Private or parochial elementary and high schools.
  - ii) Public schools.
- (g) Religious facilities:
  - i) Churches and other places of worship and accessory facilities.
  - ii) Convent or monastery.
- (h) Services, personal:
  - i) Personal care home, family.
  - ii) Personal care home, registered.
- (i) Transportation and storage: Automobile parking.

*(Comp. Ords. 2008, ch. 27, § 2H-2)*

## 3) Development standards.



- (a) *Minimum lot area.* There is no minimum lot area.
- (b) *Minimum lot width.* There is no minimum lot width at the building setback line.
- (c) *Minimum yard adjacent to public street.* The following are minimum requirements for yards that are adjacent to a public street:
  - i) The setback from major thoroughfares shall be 20 feet.
  - ii) The setback from minor thoroughfares shall be 20 feet.
  - iii) The setback from collector streets shall be five feet.
  - iv) The setback from other streets shall be five feet.
- (d) *Minimum rear yard.* There is no minimum rear yard, except that where a rear yard adjoins a project boundary, the minimum rear yard shall be 40 feet.
- (e) *Maximum height of structures.* The maximum height of any structure shall be 35 feet.
- (f) *Minimum side yard.* There is no minimum side yard required.
- (g) *Buffer.* No buffer is required.
- (h) *Open space.* The required open space is 20 percent.
- (i) *Minimum floor area.* The minimum floor area provided shall be 1,400 square feet.
- (j) *Density.* The maximum density shall be three units per acre.

(Comp. Ords. 2008, ch. 27, § 2H-3)

#### R-CD (RESIDENTIAL COMMUNITY DEVELOPMENT) DISTRICT

##### Purpose and scope.

- 1) Except as provided in section 27-30, the R-CD regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the community development director, initiated by official action of the planning commission, or considered by the city council if such amendment or application seeks to have any lots in the city zoned R-CD. The R-CD regulations set forth in this division are codified solely for the purpose of complying with the requirements of section 27-30.

(Comp. Ords. 2008, ch. 27, § 2I-1)

##### 2) Permitted uses.

Permitted uses are as follows:

- (a) Accessory uses and structures:
  - i) Accessory uses and structures incidental to any permitted use.
  - ii) Customary home occupation.
  - iii) Signs and outdoor advertising in accordance with the provisions of this chapter and the city's sign ordinance.
- (b) Agriculture and forestry:
  - i) Livestock and poultry.
  - ii) Riding stable.
  - iii) Temporary or portable sawmill.
  - iv) Pigeons.
- (c) Animal care facilities: Pigeons.
- (d) Community facilities:
  - i) Electric transformer station, gas regulator station and telephone exchange.
  - ii) Golf courses and clubhouses, private.
  - iii) Neighborhood recreation centers or swimming pools.
  - iv) Noncommercial club or lodge (except fraternal club or lodge).
  - v) Parks, private.
  - vi) Public uses.



- vii) Public utility facilities.
- viii) Sewage treatment plants.
- (e) Dwellings:
  - i) Cluster housing subdivision.
  - ii) Community development subdivision.
  - iii) Dwelling, multifamily units and apartment developments.
  - iv) Dwelling, single-family.
  - v) Dwelling, single-family attached.
  - vi) Dwelling, two-family.
  - vii) Mobile home, as an accessory structure to be used for security purposes.
  - viii) Single-family attached subdivision.
- (f) Education:
  - i) Day nurseries and kindergartens.
  - ii) Private or parochial elementary and high schools.
  - iii) Public schools.
- (g) Religious facilities:
  - i) Churches and other places of worship and accessory facilities.
  - ii) Convent or monastery.
- (h) Retail trade:
  - i) Planned shopping developments, as part of a community development subdivision.
  - ii) Retail trade, personal services and offices, as part of a community development subdivision.
- (i) Services, personal:
  - i) Personal care home, family.
  - ii) Personal care home, registered.
- (j) Transportation and storage: Automobile parking.

(Comp. Ords. 2008, ch. 27, § 21-2)

- 3) Development standards.
- (a) *Minimum lot area.* The minimum lot area shall be 50 acres for residential development and 100 acres for development with NS or OI uses.
  - (b) *Density of development and types of residential use.* The maximum number of dwelling units permitted in a community development subdivision shall not exceed 4½ dwelling units per net residential acre (total developable acreage minus that to be used for NS and OI uses as provided in this section). Not more than 40 percent of the dwelling units shall be multifamily. Not less than 60 percent of the dwelling units shall be single-family. One-half of the single-family dwelling units may be attached, but not less than one-half of the single-family lots within a cluster housing subdivision.
  - (c) *Minimum development requirements.* The minimum lot area, width, and yard requirements permitted within a community development subdivision for single-family lots, multifamily dwellings and business lots shall be as follows:

Lot and Yard	Single-Family Lots	Multifamily Dwellings Lots	Business Lots (feet)
Minimum lot area	6,000 sq. ft.	None	None

Minimum lot width	60 ft.	75 (minimum project frontage on public street)	75
Minimum yard adjacent to public street:			
Major thoroughfare	30 ft.	30	50
Minor thoroughfare	25 ft.	25	40
Collector street	10 ft.	10	40
Other street	10 ft.	10	40
Minimum side yard	0 to 7.6 ft.; 30 ft. from project boundary with a minimum of 15 feet between units unless two units are attached by a common wall; however, the attachment of a wall of one unit and the wall of an enclosed courtyard shall not be considered attached housing	10	20
Minimum rear yard	30 ft. (40 ft. on exterior lots) The development standards for single-family attached units shall be as provided in this chapter	30	40

(d) *Minimum floor area.* The minimum floor area shall be as follows:

- i) For a single-family dwelling, 1,200 square feet.
- ii) For a single-family attached dwelling, 1,000 square feet.
- iii) For a two-family dwelling containing:
  - (1) One bedroom, 600 square feet.
  - (2) Two bedroom, 750 square feet.
  - (3) Three or more bedrooms, 1,050 square feet
- iv) For an apartment containing:
  - (1) One bedroom, 650 square feet.
  - (2) Two bedrooms, 800 square feet.
  - (3) Three or more bedrooms, 1,000 square feet.

Notwithstanding the above minimum floor area requirements, a maximum of 20 percent of the total units constructed in any single development of more than one building may be one bedroom units having floor areas of less than 650 square feet but not less than a minimum floor area of 520 square feet.

- (e) *Maximum height of structures.* The maximum height of any structure shall be 35 feet.
- (f) *Buffer.* A buffer of at least 20 feet is required when the lot adjoins a developed single-family detached subdivision.
- (g) *Open space requirement.* Not less than 20 percent of the subdivision shall be set aside for open space purposes. A homeowner's association created by the developer, by recorded covenants, declarations and restrictions running with the land, shall preserve and maintain for the use and benefit of the owners and occupants of lots and dwellings within the subdivision the lands set aside for open space, parks and recreational use. The book and page in which such covenants and declarations are recorded shall be shown on the final plat of the subdivision. Required yards, streets, drives, parking areas and other similar uses shall not be counted toward the minimum open space requirements. Not more than 50 percent of the land reserved for open space purposes shall be within a flood plain. The requirement that open space be deeded to and maintained by a homeowner's association may be waived by the city for that portion of an R-CD district in which detached single-family housing is constructed. This waiver and survey to which there is entered a covenant by the developer at the minimum open space requirement shall be applied to individual lots within the subdivision. Dedication of open space to the city may also satisfy the open space requirement.
- (h) *Neighborhood shopping and office-institution uses.* The developer of a community development subdivision of not less than 100 acres may set aside not more than five percent of the total area for neighborhood shopping and office-institution uses permitted herein. However, retail liquor stores shall not be permitted unless these uses are housed within a planned shopping center constructed within a minimum of 10,000 square feet in a continuous facade. Not more than 50 percent of the five percent maybe reserved and developed for NS uses. When 100 or more dwelling units have been constructed within the subdivision, then NS uses may be established under the following conditions:
  - i) Not more than 240 square feet of floor space for retail sales and services shall be permitted for each ten dwelling units in the subdivision. There shall be not less than four square feet of business lot area for each one square foot of permitted retail floor area. Land may be reserved for the maximum permitted retail development, but the permitted square feet of retail area may be built only as the required ratio of dwelling units has been constructed.
  - ii) Retail sales and services shall be constructed entirely within a wholly and permanently enclosed building or buildings, which shall be of an architectural design compatible with the residential structures within the subdivision.
  - iii) Outdoor storage or displays of any kind shall be prohibited.
  - iv) Signs shall be limited to an identification sign for each point of entry to a store. The signs shall not exceed four square feet in area, shall not be directly lighted and shall be attached flat against the face of the building.
  - v) Off-street parking and loading spaces shall be provided as required by this chapter.
  - vi) This use shall only be placed on lots specifically designated for these purposes on the plat of the subdivision, and shall be located at least 100 feet from any residential structure. Accessory parking and loading areas shall be located at least 50 feet from any residential structure.
  - vii) When shopping facilities within a planned unit development subdivision contain not less than 40,000square feet of floor area, then the development standards established by this chapter for planned shopping developments shall apply.
  - viii) The sides, rear or front of a lot developed for retail sales and services shall neither abut nor be across the street from property lying outside the subdivision, and shall be located at least 300 feet from any exterior subdivision property line.
  - ix) Office-institution development uses shall:

- (1) Meet all IO district development standards and requirements.
- (2) Be limited to 300 square feet of floor space for each ten dwelling units, and not less than four square
- (3) area for each one square foot of floor area.
- (4) Be constructed only as the required ratio of dwelling units has been constructed.
- (5) Meet all applicable requirements of this subsection except subsections (h)(1) and (h)(7) of this section.
- x) Office-institution uses permitted by this subsection shall include:
  - (1) Cultural facilities, including art galleries, museums, legitimate theatres, libraries and other uses similar in character to those listed.
  - (2) Offices of health service practitioners, physicians, surgeons, dentists and dental surgeons, osteopathic physicians, chiropractors and other licensed practitioners similar to those listed.
  - (3) Health service clinics, including a pharmacy as an accessory use.
  - (4) General office uses, including sales representatives, legal services, engineering and architectural, accounting, auditing, bookkeeping, finance, real estate, insurance and others similar to those listed.
- (i) *Development plan.* The development plan for the subdivision shall be processed in conformance with the requirements of the city subdivision regulations. The use to be made of each lot shall be marked on the plat. The plat shall also state the maximum number of dwelling units authorized for the subdivision. When approved, the final plat shall be recorded in the same manner as other subdivision plats, along with the necessary covenants and restrictions applicable to the development. In addition, a faithful reproduction of the plat shall be predominantly displayed within the subdivision until such time as the subdivision is fully developed.
- (j) *Private deed covenants.* The subdivision shall be covered by private deed covenants running with the land which ensure its continuance in accordance with approved plans and development.

(Comp. Ords. 2008, ch. 27, § 21-3)

Sec. 27-30. - Expired and obsolete zoning districts.

- (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 VI, division 3. The R-CH zoning district regulations in effect in the county on April 12, 1999, as provided in Appendix A, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CH.
- (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 VI, division 3. The R-CD zoning district regulations in effect in the county on April 12, 1999, as provided in Appendix A, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CD.
- ~~(c) *PC zoning.* Lots classified in the PC 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 PC zoning district. The PC 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 PC. Lots zoned PC may be rezoned in accordance with the zoning map amendment procedures of article VI, division 3.~~
- ~~(d) *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 VI, division 3.~~

(Ord. No. 2013-10-15, § 1(Exh. A § 27-2.50), 10-14-2013)

Sec. 27-31. - Status of multi-unit residential buildings in the O-I district.

Multi-unit residential uses that exist on O-I zoned lots are considered nonconforming uses under the nonconformity regulations of article VI, division 4.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-2.60), 10-14-2013)

## Sec. 27-58. - Lot and building regulations.

- (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.
- (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 VII, division 1, identifies exceptions to these regulations and rules for measuring compliance (see also Figure 4-1).

	Regulation	SINGLE-DWELLING DISTRICTS							
		R-150	R-100	R-85	R-75	R-60	R-50	RA-5	RA-8
<b>L1</b>	<b>Minimum Lot Area</b> (sq. ft.)	43,560	15,000	12,000	10,000	8,000	6,000	NA[1]	NA[1]
<b>L2</b>	<b>Minimum Lot Frontage</b> (ft.) [2]	150	100	85	75	60	50	100[3]	100[3]
	<b>Maximum Density</b> (dwelling units per acre)	NA	NA	NA	NA	NA	NA	5	8
	<b>Minimum Building/Structure Setbacks</b> (ft.) [4]								
<b>S1</b>	Street, Front and Side	45[5]	35[5]	35[5]	30[5]	30[5]	5[6]	5[6]	5[6]
<b>S2</b>	Side, Interior	20	10	8.5	7.5	7.5	7.5	15	15
<b>S3</b>	Side, Interior (accessory buildings/structures)	10	10	10	10	10	10	10[7]	10[7]
<b>S4</b>	Rear	40	40	40	40	40	30	30	30
<b>S5</b>	Rear (accessory buildings/structures)	10	10	10	10	10	10	10	10
<b>C</b>	<b>Maximum Lot Coverage</b> (percent) [8]								
	Lot area = 43,560 sq. ft. or more	25	25	25	25	25	25	25	25
	Lot area = 30,000 to 43,559 sq. ft.	30	30	30	30	30	30	30	30

	Lot area = 20,000 to 29,999 sq. ft.	35	35	35	35	35	35	35	35
	Lot area = 19,999 sq. ft. or less	40	40	40	40	40	40	50	50
	<b>Maximum Building Height (ft.)</b>								
	Principal Building	35	35	35	35	35	35	35	35
	Accessory Buildings/Structures	20	20	20	20	20	20	20	20

[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.~~ Corner lots are subject to street setbacks along all street frontages. The rear setback is measured from the property line parallel to the lot frontage (see Section 27-572), and interior side setbacks are applicable along all other lot lines.

[5] Add five feet for minimum setbacks from arterial streets.

[6] Street-facing garage façades 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. See also the attached house building separation requirements of section 27-132.

[8] Maximum lot coverage for institutional uses; including, but not limited to, educational services, places of worship, and neighborhood recreation club shall not exceed 60 percent.





	Detached houses [2]	60	60	60	60	60
	Attached house	100[3]	100[3]	100[3]	100[3]	100[3]
	Two-unit building	75	75	75	75	75
	Three-unit building	85	85	85	85	85
	Multi-dwelling (4+ unit) buildings	150	100	100	100	100
	<b>Minimum Building/Structure Setbacks (ft.) [4]</b>					
	Detached and attached houses, 2-unit and 3-unit buildings					
<b>S1</b>	Street, front	30	30	30	30	30
<b>S2</b>	Street, side[5]	15	15	15	15	15
<b>S3</b>	Side, interior	7.5	7.5	7.5	7.5	7.5
<b>S4</b>	Side, interior (accessory buildings/structures)	10	10	10	10	10
<b>S5</b>	Rear	30	30	30	30	30
<b>S6</b>	Rear (accessory buildings/structures)	10	10	10	10	10
<b>C</b>	<b>Maximum Lot Coverage (percent) [8]</b>	35	35	35	35	65
	Multi-unit (4+ unit) buildings					
<b>S1</b>	Street, front and side	35	35	35	35	35
<b>S3</b>	Side, interior	20[6]	20[6]	20[6]	20[6]	20[6]
<b>S4</b>	Side, Interior (accessory buildings/structures)	7.5	7.5	7.5	7.5	7.5
<b>S5</b>	Rear [7]	40[6]	40[6]	40[6]	40[6]	40[6]
<b>S6</b>	Rear (accessory buildings/structures) [7]	10	10	10	10	10
<b>C</b>	<b>Maximum Lot Coverage (percent)</b>	35	35	35	35	65

	<b>Maximum Building Height (ft.)</b>					
	Detached house, two-unit or three-unit building	35	35	35	35	35
	Multi-dwelling (4+ unit) building					
	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

[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 section 27-132 and section 27-142.

[5] In attached house projects, interior side setbacks apply only to end units. No interior side setback is required between units with common or abutting walls.

[6] Minimum interior side and rear setback is 50 feet for multi-unit residential buildings on lots abutting single-dwelling (R) residential zoning districts.

[7] Corner lots are subject to street setbacks along all street frontages and interior side setbacks along all other lot lines.

[8] Maximum lot coverage for institutional uses, including, but not limited to, educational services, places of worship, and neighborhood recreation club, and for permitted multi-unit buildings, including town homes and similar uses shall not exceed 70 percent.



## Sec. 27-72. - Uses allowed.

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See [subsection] 27-111(4) for information about how to interpret the use table.

USES	DISTRICTS									Supplemental Regulations
	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M	
<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	-	-	-	-	-	-	-	27-147
Multi-unit building	-	-	-	S	-	-	S	-	-	
Mixed-use building, vertical	-	-	-	P	-	-	P	-	-	
Group Living										
Convent and monastery	P	P	-	P	-	-	-	-	-	27-146
Fraternity house, sorority house or residence hall	P	-	-	-	-	-	-	-	-	
Nursing home	P	P	-	-	-	-	-	-	P	
Personal care home, family (1—4 persons)	-	-	P	-	P	P	P	P	-	
Personal care home, group (5—7 persons)	-	-	P	-	P	P	P	P	-	
Personal care home, community (8+ persons)	P	P	P	-	P	P	P	P	-	27-145
Child caring institution (1—6 persons)	P	P	P	-	P	P	P	P	-	
Child caring institution (7—15 persons)	P	P	P	-	P	P	P	P	-	

Child caring institution (16 or more)	P	S	P	-	P	P	P	P	-	
Community living arrangement (1—4 persons)				P		P	P			
Shelter, homeless	S	S	-	-	-	P	P	P	-	27-140
Transitional housing facility	S	S	-	-	-	P	P	P	-	27-140
<b>QUASI-PUBLIC AND INSTITUTIONAL</b>										
<b>Ambulance Service</b>	-	-	-	-	-	P	P	P	P	
<b>Club or Lodge, Private</b>	P	P	P	-	-	P	P	P	P	
<b>Cultural Exhibit</b>	P	P	P	-	-	P	P	P	-	
Day care facility, adult (6 or fewer persons)	-	-	P	-	-	-	-	-	-	27-137
Day care center, adult (7 or more)	P	P	P	P	P	P	P	P	-	
Day care facility, child (6 or fewer persons)	-	-	P	-	-	-	-	-	-	
Day care center, child (7 or more)	P	P	P	P	P	P	P	P		
<b>Educational Services</b>										
College or university	P	P	P	-	-	-	-	-	-	
Kindergarten	P	P	P	P	P	P	P	P	-	27-141
Research and training facility, college or university affiliated	P	P	P	-	-	-	-	-	P	
School, private elementary, middle or senior high	P	P	P	P	-	P	P	P	P	27-148
School, specialized non-degree	P	P	P	P	-	P	P	P	P	
School, vocational or trade	P	P	P	-	-	P	P	P	P	

<b>Hospital</b>	P	-	-	-	-	-	-	-	-	
<b>Place of Worship</b>	P	P	P	P	P	P	P	P	P	27-146
<b>Utility Facility, Essential</b>	E	E	P	E	E	P	P	P	P	27-151
<b>COMMERCIAL</b>										
<b>Adult Use</b>										
Body art service								P	P	
Sexually oriented business	P	-	-	P	-	-	-	P	P	27-149
<b>Animal Services</b>										
Animal care/boarding	-	-	-	S	S	P	P	P	P	27-131
Animal grooming	-	-	-	P	P	P	P	P	P	27-131
Animal hospital/veterinary clinic	-	-	-	P	P	P	P	P	P	27-131
<b>Communication Services</b>										
Radio and television broadcasting stations	P	P	P	-	-	P	P	P	P	
Recording studios	P	P	P	-	-	P	P	P	P	
Telecommunication tower	A	-	A	-	S	A	A	A	A	27-150
Telecommunication antenna, co-located	P	P	P	P	P	P	P	P	P	27-150
<b>Construction and Building Sales and Services</b>										
Building or construction contractor	-	-	-	-	-	-	-	P	P	
Commercial greenhouse or plant nursery	-	-	-	-	-	-	-	P	P	
Electrical, plumbing and heating supplies and services	-	-	-	-	-	P	P	-	P	

Lumber, hardware or other building materials establishment	-	-	-	-	-	P	P	P	P	
<b>Eating and Drinking Establishments</b>										
Restaurant, accessory to allowed office or lodging use	P	-	-	P	-	P	P	P	P	
Restaurant, drive-in or drive-through	-	-	-	-	-	P	S	P	P	
Food truck	P	P	P	P	P	P	P	P	P	27-138
Other eating or drinking establishment	-	-	-	P	P	P	P	P	-	
<b>Entertainment and Spectator Sports</b>										
Auditorium or stadium	-	-	-	-	-	-	-	P	P	
Drive-in theater	-	-	-	-	-	-	-	P		
Movie theater	-	-	-	P	-	-	-	P	-	
Special events facility	-	P	-	-	-	P	P	P	-	
<b>Financial Services</b>										
Banks, credit unions, brokerage and investment services	P	P	P	P	P	P	P	P	P	
Convenient cash business	-	-	-	-	-	-	-	P	-	27-136
Pawn shop	-	-	-	-	-	-	-	P	-	27-144
<b>Food and Beverage Retail Sales</b>										
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	<u>P</u> [1]-	-	P	P	P	P	P	P	P	
<b>Funeral and Interment Services</b>										
Cemetery, columbarium, or mausoleum	P	P	P	-	-	-	-	-	-	
Crematory	-	-	-	-	-	-	-	-	S	
Funeral home or mortuary	P	-	-	-	-	P	P	P	P	
<b>Lodging</b>	P	-	P	P	-	P	P	P	P	
<b>Medical Service</b>										
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	P	P	P	P	P	P	P	P	P	
<b>Office or Consumer Service</b>	P	P	P	P	P	P	P	P	P	
<b>Parking, Non-accessory</b>	S	-	P	-	-	P	P	P	P	27-143
<b>Personal Improvement Service</b>										
Barber shop, beauty shop, nail salon, massage and/or spa establishments, estheticians, and other "typical" uses per [subsection] 27-114(14)	P	-	-	P	P	P	P	P	P	27-114(14)
Other personal improvement service	-	-	-	-	-	P	P	P	P	
<b>Repair or Laundry Service, Consumer</b>										
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	
<b>Research and Testing Services</b>	P	-	P	P	-	-	-	P	P	
<b>Retail Sales</b>										
Retail sales of goods produced on the premises	-	-	-	-	-	-	-	-	P	
Shopping Center	-	-	-	P	P	P	P	P	-	
Other retail sales	<u>P</u> [1]-	-	P	P	P	P	P	P	-	
<b>Sports and Recreation, Participant</b>										
Golf course and clubhouse, private	P	P	P	-	-	-	-	P	P	
Health club	-	-	P	P	P	P	P	P	P	
Private park	P	P	P	-	-	-	-	-	-	
Recreation center or swimming pool, neighborhood	P	P	P	-	-	-	-	-	P	
Recreation grounds and facilities	-	-	P	-	-	-	-	P	-	
Tennis center, club and facilities	P	P	P	P	-	P	P	P	-	
Other participant sports and recreation (Indoor)	P	-	-	P	-	P	P	P	-	
Other participant sports and recreation (Outdoor)	-	-	-	-	-	-	-	P		
<b>Vehicle and Equipment, Sales and Service</b>										
Car wash	-	-	-	-	-	P	-	P	P	27-134

Gasoline sales	-	-	-	-	-	P	-	P	P	27-139
Vehicle repair, minor	-	-	-	-	-	P	-	P	P	27-153
Vehicle repair, major	-	-	-	-	-	-	-	P	P	27-152
Vehicle sales and rental	-	-	-	-	-	S	S	P	P	27-154
Vehicle storage and towing	-	-	-	-	-	-	-	P	P	27-155
<b>INDUSTRIAL</b>										
<b>Manufacturing and Production, Light</b>	-	-	-	-	-	-	-	P	P	
<b>Wholesaling, Warehousing and Freight Movement</b>										
Warehousing and storage	-	-	P	-	-	-	-	-	-	
Self-storage warehouse	-	-	P	-	-	-	-	-	P	
Storage yard and truck terminal	-	-	-	-	-	-	-	-	S	
<b>AGRICULTURE AND TRANSPORTATION</b>										
<b>Agriculture</b>										
Agricultural produce stand	-	-	-	-	-	-	-	-	P	
Community garden	P	P	P	P	P	P	P	P	P	27-135
Crops, production of	-	-	-	-	-	-	-	-	P	
<b>Transportation</b>										
Heliport	S	-	S	-	-	S	S	-	P	
Stations and terminals for bus and rail passenger service	S	-	-	-	-	-	-	-	-	
Taxi stand and taxi dispatching office	-	-	-	-	-	P	P	-	P	

[1] Within the O-I zoning district, *Other food and beverage sales* and *Other retail sales* are limited as follows:

- a. Not permitted in any residential buildings or buildings with a residential component.
- b. Allowed only as an accessory use on the ground floor of a multi-story office or institutional building.
- c. Maximum floor area of the tenant suite is limited to 2,000 square feet.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-5.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2015-06-13, § 1, 6-22-2015; Ord. No. 2019-05-08, § 1, 5-6-2019)

Sec. 27-111. - General.

This division contains a description of the use classification system used to classify principal uses in this zoning ordinance.

- (1) *Use categories.* This zoning ordinance classifies principal land uses into five major groupings, which are referred to as use categories:
  - a. Residential;
  - b. Quasi-Public and Institutional;
  - c. Commercial;
  - d. Industrial;
  - e. Agricultural.
- (2) *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.
- (3) *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.
- (4) *Use tables.* The use tables in sections 27-57 and 27-72 identify uses allowed in residential districts and in nonresidential and mixed-use districts, respectively.
  - a. *Use categories, use subcategories and specific use types.* The use categories and subcategories described in this division 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.
  - b. *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.
  - c. *Special uses.*
    1. 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 V, division 3. 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.
    2. 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 V, division 6. 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.
    3. 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 V, division 7. 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.
  - d. *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 III, division 1 are also prohibited.
  - e. *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.

(5) *Determination of use categories and subcategories.*

- a. The community development director is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
- b. 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. ~~Any decision made by the community development director to authorize a use in a zoning district where it is not specifically authorized shall be published, and notice sent to adjacent property owners, per paragraph (5)e. below.~~ In making such determinations, the community development director is authorized to consider all of the following:
  1. The types of activities that will occur in conjunction with the use;
  2. The types of equipment and processes to be used;
  3. The existence, number and frequency of residents, customers or employees;
  4. Parking demands associated with the use; and
  5. Other factors deemed relevant to a use determination.
- c. 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.
- d. 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.
- e. ~~Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by the decision of the community development director on use determinations may appeal the decision within 30 days of the community development director's decision. Decisions pertaining to "uses" as conditioned in [subsection] b. above will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. Appeal shall be in accordance with the appeal procedures of article V, division 8.~~

(Ord. No. 2013-10-15, § 1(Exh. A § 27-8.10), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-111. - General.

This division contains a description of the use classification system used to classify principal uses in this zoning ordinance.

- (1) *Use categories.* This zoning ordinance classifies principal land uses into five major groupings, which are referred to as use categories:
  - a. Residential;
  - b. Quasi-Public and Institutional;
  - c. Commercial;
  - d. Industrial;
  - e. Agricultural.
- (2) *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.
- (3) *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.
- (4) *Use tables.* The use tables in sections 27-57 and 27-72 identify uses allowed in residential districts and in nonresidential and mixed-use districts, respectively.
  - a. *Use categories, use subcategories and specific use types.* The use categories and subcategories described in this division 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.
  - b. *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.
  - c. *Special uses.*
    1. 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 V, division 3. 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.
    2. 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 V, division 6. 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.
    3. 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 V, division 7. 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.
  - d. *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 III, division 1 are also prohibited.
  - e. *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.

(5) *Determination of use categories and subcategories.*

- a. The community development director is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
- b. 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. ~~Any decision made by the community development director to authorize a use in a zoning district where it is not specifically authorized shall be published, and notice sent to adjacent property owners, per paragraph (5)e. below.~~ In making such determinations, the community development director is authorized to consider all of the following:
  1. The types of activities that will occur in conjunction with the use;
  2. The types of equipment and processes to be used;
  3. The existence, number and frequency of residents, customers or employees;
  4. Parking demands associated with the use; and
  5. Other factors deemed relevant to a use determination.
- c. 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.
- d. 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.
- e. ~~Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by the decision of the community development director on use determinations may appeal the decision within 30 days of the community development director's decision. Decisions pertaining to "uses" as conditioned in [subsection] b. above will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. Appeal shall be in accordance with the appeal procedures of article V, division 8.~~

(Ord. No. 2013-10-15, § 1(Exh. A § 27-8.10), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

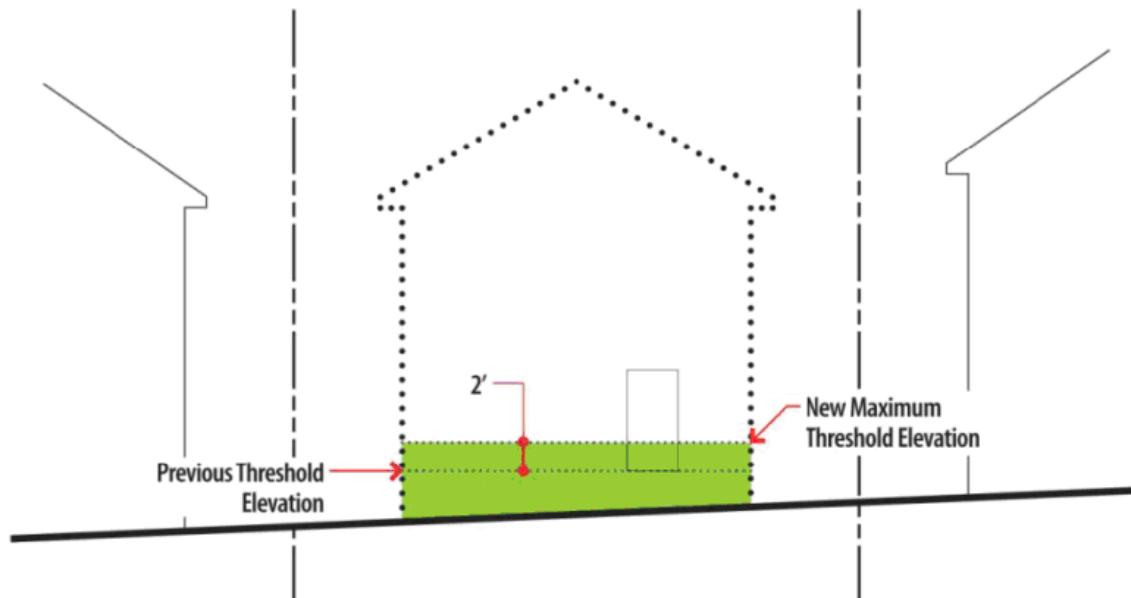
Sec. 27-147. - Residential infill.

Applicability: The residential infill regulations of this subsection apply to the construction and reconstruction of detached houses and the subdivision of land zoned single family:

(1) *Front door threshold elevation.*

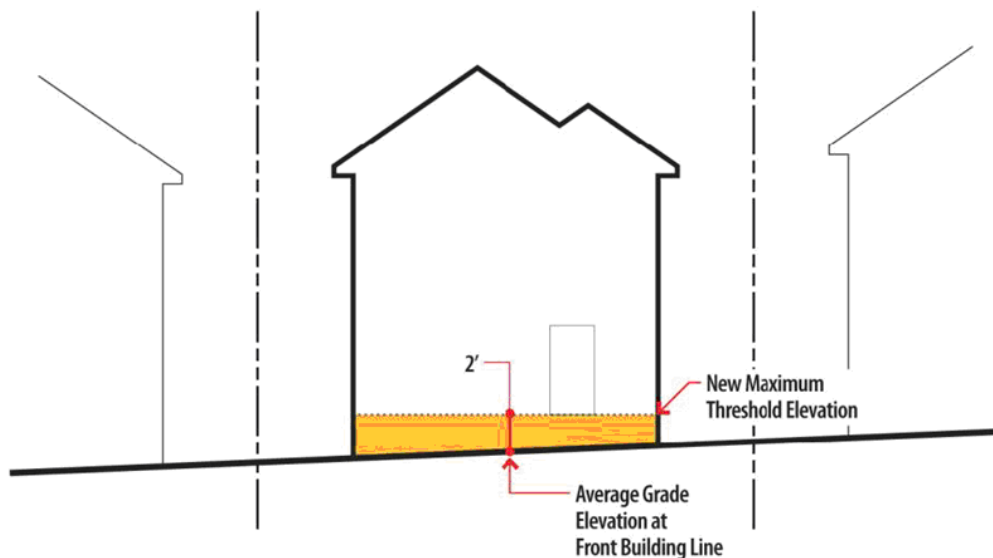
- a. *Replacement of a detached house.* The proposed front door threshold elevation for any new detached house may not be more than two feet higher than the front door threshold elevation of the residential structure that existed on the lot prior to demolition (see Figure 9-1). If there was no previous residential structure on the subject lot, or if the lot has been part of an approved subdivision that resulted in the creation of any new lots, then the proposed front door threshold elevation for a new detached house on the lot may not be more than two 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.

*Figure 9-1: Residential Infill, Maximum Threshold Elevation Based on Previously Existing Threshold*



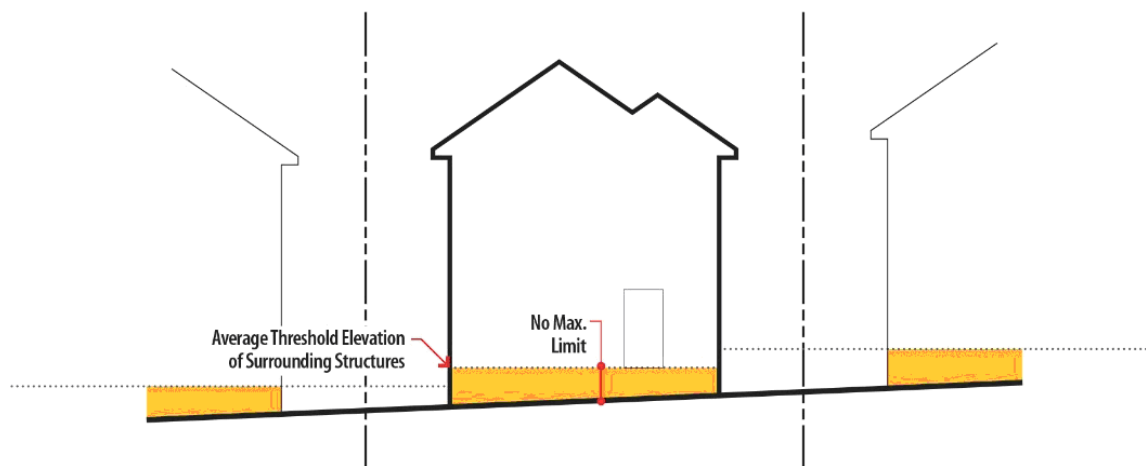


*Figure 9-2: Residential Infill, Maximum Threshold Elevation Based on Average Grade Elevation at Front Building Line*



- b. *Threshold averaging.* The community development director is authorized to approve a proposed front door threshold elevation for new detached houses that exceed the threshold elevation allowed by subsection (1)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 9-3). If any adjacent lot is vacant, the front door threshold shall be calculated using the formula in [subsection] (1)a. above (for lots with no previous residential structure, Figure 9-2). The applicant must provide the community development director with the threshold elevations, as certified by a licensed surveyor or engineer.

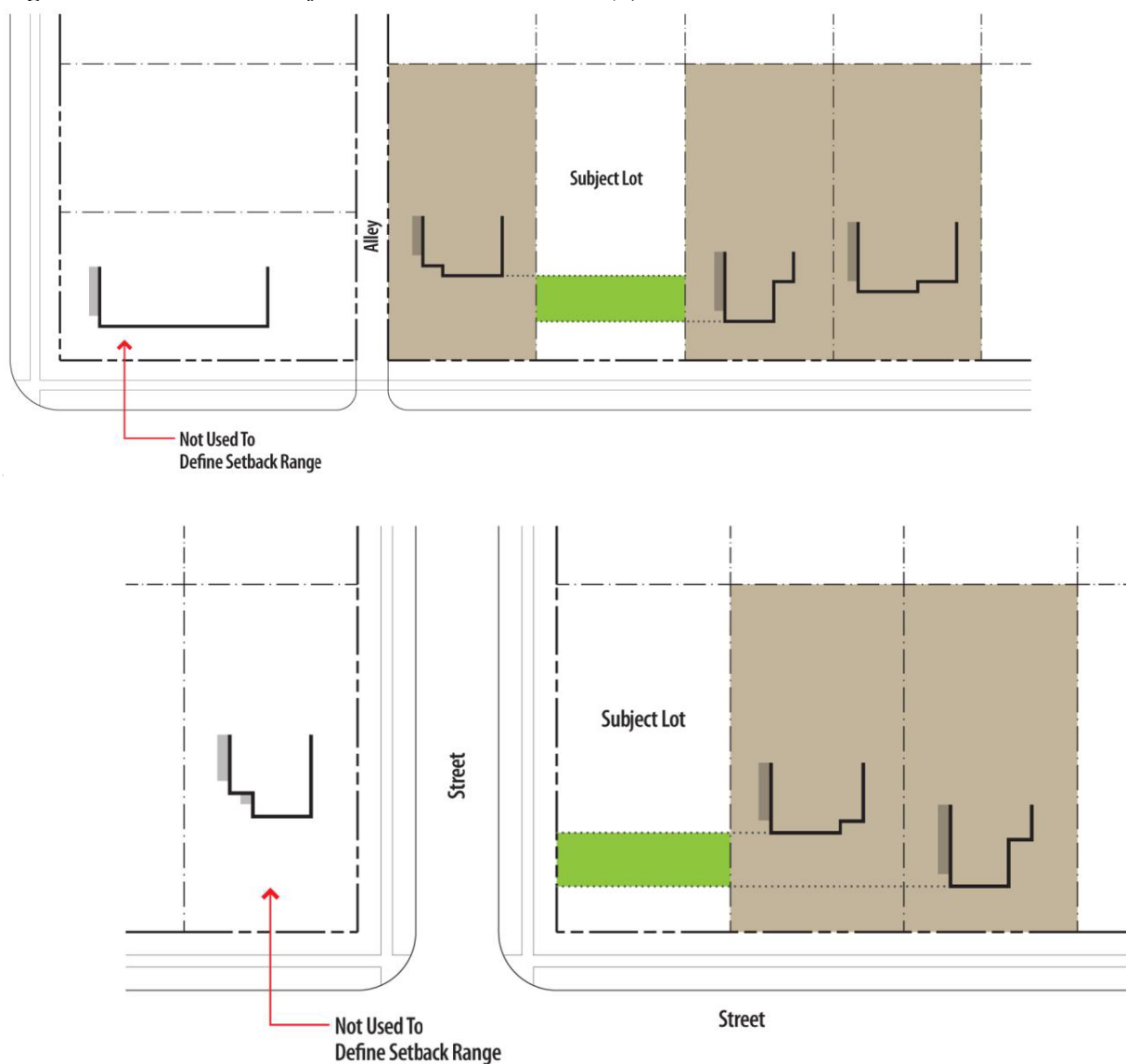
*Figure 9-3: Residential Infill, Maximum Threshold Elevation Based on Threshold Averaging*



- c. *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



Figure 9-4: Residential Infill, Contextual Setbacks (2)



- d. If the subject lot is a corner lot, the street setback range must be determined on the basis of the nearest two lots with frontage on the same street as the subject lot.
  - e. 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 two lots with frontage on the same street as the subject lot.
  - f. These contextual street setback regulations may not be used to reduce the setback of a street-facing garage door to less than 20 feet.
- (3) *Contextual lot characteristics.* Proposed subdivisions that are adjacent to block faces that are occupied by two or more existing detached houses must comply with the contextual lot characteristic regulations of this subsection in addition to those requirements in chapters 16 and 27.
- a. Minimum lot area shall be determined by calculating the average area of lots that exist on the nearest four lots on both sides of the subject lot.

- b. Minimum lot frontage shall be determined by calculating the average frontage of lots that exist on the nearest four lots on both sides of the subject lot.
  - c. Minimum lot width shall be determined by calculating the average width of lots that exist on the nearest four lots on both sides of the subject lot, measured along the building setback line.
  - d. Corner lots or lots with multiple street frontages
    - 1. *Area*. Minimum lot area shall be determined by calculating the average area of lots that exist on the nearest four lots on both sides of the subject lot for all street frontages.
    - 2. *Frontage*. Minimum lot frontage shall be determined by calculating the average frontage of the nearest four lots on the side(s) with frontage on the same street as the subject frontage. An additional 15 feet shall be provided on all frontages above the minimum distance obtained by the average calculation for minimum lot frontage.
    - 3. *Width*. Minimum lot width shall be determined by calculating the average width of the nearest four lots on the side(s) with frontage on the same street as the subject width.
  - e. 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 contextual lot characteristics, except as required for corner lots.
  - f. In no circumstance shall the provisions of this subsection reduce any provision required by the base zoning district.
- (4) If existing land is proposed to be subdivided, the reference parcels for the purposes of determining contextual requirements shall be those immediately adjacent to and outside the parcel or group of parcels comprising the subject subdivision. Additionally, upon a determination of the community development director, parcels with the following characteristics shall not be used in calculating contextual street setbacks or lot characteristics. Where practical—the next immediate adjacent parcel meeting the requirements for use as a reference parcel, if any, shall be used for subject calculations:
- a. Unbuildable lots;
  - b. Substandard or nonconforming lots;
  - c. Unsubdivided property, or meets and bounds lots, which are uncharacteristic of the area and/or significantly exceed one or more of the minimum lot regulations for the zoning district, and/or are large raw undeveloped property which are expected to be the subject of a future subdivision request.
- (5) *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.
- (6) *Exceptions*. Exceptions to the requirements of this section 27-147, residential infill, may be requested through the special exception process as outlined in section 27-416. In addition to the review criteria of section 27-421(b), the zoning board of appeals shall also determine that the proposed exception will not be detrimental to or adversely impact adjacent property.
- (7) *Determination*: The community development director is authorized to determine whether the provisions of the contextual regulations for lot size, width, frontage and setbacks apply to the subdivision of land and/or construction of a single family home on a lot. The community development director is authorized to determine whether the provisions of the contextual regulations for lot size, width, frontage and setbacks apply to the construction of a single family home on a lot, whether the lot(s) is part of a proposed subdivision or one that was previously recorded. In this capacity, the director may determine whether a proposed subdivision of land is subject to the same regulations. Findings used in this determination shall include, but not be limited to, the following:

Whether the lot(s):

1. Is significantly different in character and/or contrary to the prevailing orientation of lots outside of the subdivision, (within the immediate surrounding or adjacent area); or
2. Creates multiple new lots or lot/block configurations which create a different context; or
3. Creates new streets and alignments of lots; or
4. Alters other characteristics of the property such that the lot(s) represent a different context, are altered visually or physically from the characteristics of the adjacent/previous neighborhood and such conditions render the application of the contextual regulations for lot size, width, frontage, and setback impractical, unreasonable, or unwarranted.

The owners of property adjacent to the subject lot(s) will be notified of and may appeal the decision of the community development director per article V of this chapter.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-9.170), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2017-04-07, § 2, 4-11-2017)

Sec. 27-174. - 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:

- (1) The real property owner must live in the detached house.
- (2) Relatives must be related by blood, marriage or law.
- (3) The area of the second kitchen facility may not exceed the area of the main kitchen facility.
- (4) 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.
- (5) 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.~~

(Ord. No. 2013-10-15, § 1(Exh. A § 27-10.90), 10-14-2013)

DIVISION 7. - SPECIAL ADMINISTRATIVE PERMITS<sup>[2]</sup>

Footnotes:

--- (2) ---

**Editor's note**— Section 1 of Ord. No. 2015-01-05, adopted Jan. 26, 2015, changed the title of div. 7 from "Administrative Permits" to read as herein set out.

Sec. 27-436. - Applicability.

The community development director is authorized to approve the following as special administrative permits in accordance with the procedures of this division:

- (1) Any use or activity expressly authorized to be approved by special administrative permit pursuant to the provisions of this zoning ordinance;
- (2) Increase in maximum off-street motor vehicle parking and loading ratios by up to one space or 20 percent, whichever is greater and reductions in minimum bicycle parking ratios by up to two spaces or ten percent, whichever is greater;
- (3) Minor exceptions to those Perimeter Center Overlay and Perimeter Center zoning district regulations expressly identified in section 27-98(a)(7)a. and section 27-104(a)(5)a.;
- (4) Reduction of any zoning district building setback requirements by up to ten percent;
- (5) Reduction of any rear building setback, greater than ten percent, but no more than ten feet, for building additions not exceeding one story or 18 feet in height;
- (6) Type B home occupations that are solely teaching-related and conducted entirely within the principal dwelling;
- (7) Relatives residences;
- (8) Antennas that project more than ten feet above the height of the structure to which they are attached;
- (9) Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to ten percent;
- (10) Increase in the maximum front door threshold height allowed by section 27-147;
- (11) Increase in the maximum retaining wall height, as allowed by section 27-269;
- (12) Reduction of the minimum retaining wall setback requirement, as allowed by section 27-269;
- (13) Reduction of the minimum wing wall side setback requirement, as allowed by section 27-270; and
- (14) Increase in maximum fence height on residential corner lots, as allowed by section 27-267.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.10), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2017-04-07, § 4, 4-11-2017; Ord. No. 2018-03-05, § II, 3-26-2018; Ord. No. 2019-07-14, § 1, 7-22-2019)

Sec. 27-437. - Authority to file.

Applications for approval of special administrative permits may be filed by the owner of the subject property or the property owner's authorized agent.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-438. - Application filing.

Special administrative permit applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.30), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-439. - Posted notice.

A sign must be placed in a conspicuous location on the subject property at least 30 days before the date of the community development director's decision on the special administrative permit request. 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. The requests and decision will be posted on the City's webpage.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.40), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-440. - Community development director's decision.

- (a) The community development director must review each application for a special 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.
- (b) The community development director may not take final action to approve or deny a special administrative permit application until at least 30 days after the date that posted notice was provided. All decisions must be made in writing within 60 days of the date that the application was filed, or if heard before the zoning board of appeals, as required in section 27-396.
- (c) The community development director's decision to approve or deny must be based on the approval criteria of section 27-441.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.50), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-441. - Review and approval criteria.

Special 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:

- (1) The grant of the administrative permit will not be detrimental to the public health, safety or welfare of the public or injurious to the subject property, adjacent properties, or improvements;
- (2) The requested administrative permit does not go beyond the minimum necessary to afford relief; and
- (3) The requested administrative permit is consistent with all relevant purpose and intent statements of this zoning ordinance.



(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.60), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2019-05-08, § 3, 5-6-2019)

Sec. 27-442. - Appeals.

Decisions by the community development director made pursuant to this division may be appealed ~~in accordance with procedures and conditions in Chapter 27, Article 8. to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the city's web page and in a newspaper of general circulation within the city. Appeal shall be in accordance with procedures and conditions in chapter 27, article V, division 8. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The ZBA decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.~~

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.70), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-443. - Amending conditions of approval.

A request for changes in conditions of approval attached to an approved special administrative permit must be processed as a new special administrative permit application in accordance with the procedures of this division.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.90), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

**Editor's note**— Section 1 of Ord. No. 2015-01-05, adopted Jan. 26, 2015, repealed former § 27-443, which pertained to transfer of administrative permit, and derived from Ord. No. 2013-10-15, § 1(Exh. A § 27-23.80), adopted Oct. 14, 2013. Said ordinance subsequently amended and renumbered former §§ 27-444 and 27-445 as §§ 27-443 and 27-444.

Sec. 27-444. - Reporting.

The community development director must maintain records of all special administrative permits that have been approved or denied and provide a summary of such actions to the city council and planning commission at least four times per calendar year.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.100), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

**Editor's note**— See editor's note to § 27-443.

Secs. 27-445—27-455. - Reserved.

Sec. 27-104. - Districts.

(a) *Districts and regulating map.*

- (1) *District map.* The permitted location for each Perimeter Center district is designated in figure 27-104-1, regulating map.
- (2) *District requirements.* The requirements in this subsection apply to the Perimeter Center districts as follows.
  - a. *Requirements specific to each district.* Refer to [sections] 27-104(b) through 27-104(e) for specific descriptions and requirements for each district.
  - b. *Use requirements for all districts.* Refer to [section] 27-104(f) uses for use requirements applicable to all districts.
  - c. *Sustainability measures for all districts.* Refer to [section] 27-104(g), sustainability measures, for sustainable development practice requirements applicable to all districts.
- (3) *Street types.* Refer to section 27-98(b)(b) street types within the Perimeter Center Overlay for information on street types and street frontage requirements applicable to all Perimeter Center districts.
- (4) *Transition yards.* Refer to section 27-230, transition yards, for information on buffer and screen requirements between different districts and uses.
- (5) *New streets and blocks.* Refer to section 27-98(c), streets and blocks, within the Perimeter Center Overlay for information on new street design requirements and block configurations.
- (6) *Other Perimeter Center Overlay requirements.* Refer to section 27-98(d), general building design criteria within the Perimeter Center Overlay.

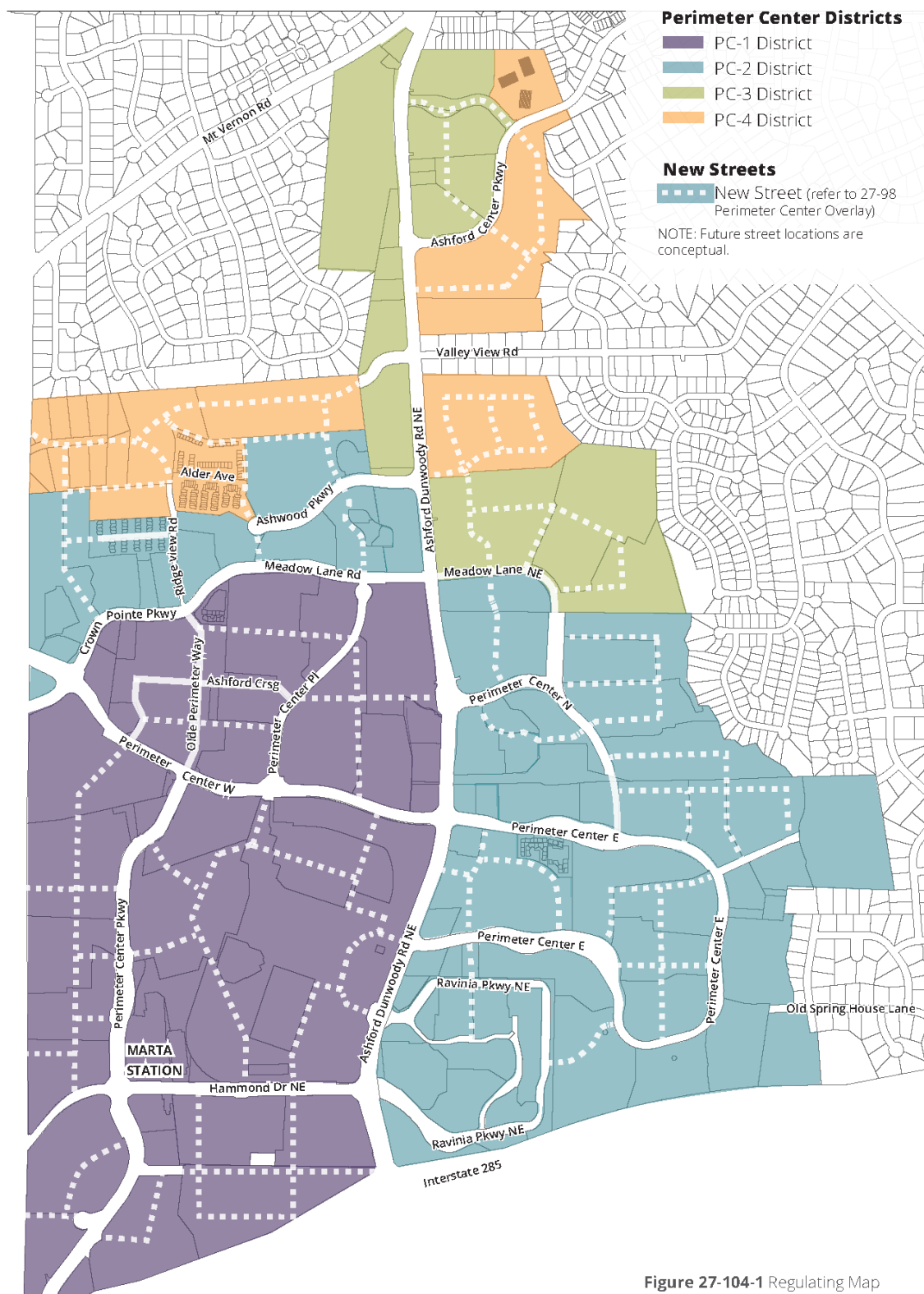


Figure 27-104-1 Regulating Map

PC-1 DISTRICT REQUIREMENTS			Reference
BUILDING TYPES	Shopfront	<ul style="list-style-type: none"><li>Minimum 60% of the length of all Primary Street frontages shall be fronted with the Shopfront Building. Refer to Figure 27-98-2 Street Types Map.</li></ul>	27-105 Building Types
	General	<ul style="list-style-type: none"><li></li></ul>	
	Townhouse		
	Detached House		
	Civic	<ul style="list-style-type: none"><li></li></ul>	
USE MIX	Minimum Mix of Uses	For all developments over 3 acres in size, a minimum of 2 use categories shall be accommodated.	27-104(f) Uses
HEIGHT	Minimum	For parcels larger than 3 acres, buildings shall be a minimum of 18 feet in height.	27-105(b)(2) for floor-to-floor heights per Building Type;
	Maximum	16 stories or 200 feet, whichever is less; Up to 36 stories or 360 feet, whichever is less, may be approved as a condition of rezoning or, if already zoned, with a special land use permit	
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway	<ul style="list-style-type: none"><li></li></ul>	27-98(b) Street Types
	Primary Street	<ul style="list-style-type: none"><li></li></ul>	
	Secondary Street	<ul style="list-style-type: none"><li></li></ul>	
	Secondary Street Narrow		
SITE COVERAGE	Maximum Impervious Cover	80 percent	27-621 Terms Defined
	Maximum Impervious plus Semi-Pervious Cover	85 percent	
OPEN SPACE REQUIREMENTS	One permitted Open Space Type is required within 1/8 of a mile of the principal entrance(s) to each building. For developments over 15 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size. For developments with a floor-area-ratio over 12, one additional Green or Park Open Space Type is required		27-106 Open Space Types
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		
	Plaza	<ul style="list-style-type: none"><li></li></ul>	
	Green	<ul style="list-style-type: none"><li></li></ul>	
	Commons	<ul style="list-style-type: none"><li>Permitted but shall not be used to meet open space requirement.</li></ul>	
	Park	<ul style="list-style-type: none"><li></li></ul>	

● = permitted

PC-1 DISTRICT REQUIREMENTS			Reference
BUILDING TYPES	Shopfront	● Minimum 60% of the length of all Primary Street frontages shall be fronted with the Shopfront Building. Refer to Figure 27-98-2 Street Types Map.	27-105 Building Types
	General	●	
	Townhouse		
	Detached House		
	Civic	●	
USE MIX	Minimum Mix of Uses	For all developments over 3 acres in size, a minimum of 2 use categories shall be accommodated.	27-104(f) Uses
HEIGHT	Minimum	For parcels larger than 3 acres, buildings shall be a minimum of 18 feet in height.	27-105(b)(2) for floor-to-floor heights per Building Type;
	Maximum	16 stories or 200 feet, whichever is less; Up to 36 stories or 360 feet, whichever is less, may be approved as a condition of rezoning or, if already zoned, with a special land use permit	
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway	●	27-98(b) Street Types
	Primary Street	●	
	Secondary Street	●	
	Secondary Street Narrow		
SITE COVERAGE	Maximum Impervious Cover	80 percent	27-621 Terms Defined
	Maximum Impervious plus Semi-Pervious Cover	85 percent	
OPEN SPACE REQUIREMENTS	One permitted Open Space Type is required within 1/8 of a mile of the principal entrance(s) to each building. For developments over 15 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size.		
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		27-106 Open Space Types
	Plaza	●	
	Green	●	
	Commons	● Permitted but shall not be used to meet open space requirement.	
	Park	●	

● = permitted

Figure 27-104-2. PC-1 District Requirements

(b) **PC-1 district.** Requirements for this district are provided in figure 27-104-2, PC-1 district requirements.

- (1) **Description and intent.** The PC-1 district is intended to apply to the central core area of Perimeter Center, including the area directly surrounding the Dunwoody MARTA train station. This district allows for the highest intensity of buildings, a high level of employment uses, and active ground story uses and design that support pedestrian mobility.

PC-2 DISTRICT REQUIREMENTS			Reference
PERMITTED BUILDING TYPES	Shopfront	● Permitted on Primary Street frontages only. Refer to Figure 27-98-2 Street Types Map.	27-105 Building Types
	General	●	
	Townhouse	●	
	Detached House		
	Civic	●	
USE MIX	Minimum Mix of Uses	No mix required	27-104(f) Uses
HEIGHT	Minimum	1 story; single story buildings shall be 18 to 24 feet in height.	27-230 for transition yards; 27-105(a)(9)e for perimeter buffer; 27-105(b)(2) for floor-to-floor heights per Building Type
	Maximum: less than 100 feet from a lot line adjacent to single family zoning district	3 stories or 35 feet, whichever is less	
	Maximum: between 100 feet and 500 feet from a lot line adjacent to single family zoning district	5 stories or 70 feet, whichever is less	
	Maximum: greater than 500 feet to a lot line adjacent to single family zoning district	14 stories or 180 feet, whichever is less	
	Additional Height: in any location	Additional height may be approved as a condition of rezoning or, if already zoned, with a special land use permit	
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway	●	27-98(b) Street Types
	Primary Street	●	
	Secondary Street	●	
	Secondary Street Narrow		
SITE COVERAGE	Maximum Impervious Cover	65 percent	27-621 Terms Defined
	Maximum Impervious plus Semi-Pervious Cover	75 percent	
OPEN SPACE REQUIREMENTS	One Open Space Type is required within 1/4 of a mile of the principal entrance(s) to each building. For developments over 18 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size. For developments with a floor-area-ratio over 12, one additional Green or Park Open Space Type is required		27-106 Open Space Types
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		
	Plaza	●	
	Green	●	
	Commons	●	
	Park	●	

● = permitted

PC-2 DISTRICT REQUIREMENTS			Reference
PERMITTED BUILDING TYPES	Shopfront	● Permitted on Primary Street frontages only. Refer to Figure 27-98-2 Street Types Map.	27-105 Building Types
	General	●	
	Townhouse	●	
	Detached House		
	Civic	●	
USE MIX	Minimum Mix of Uses	No mix required	27-104(f) Uses
HEIGHT	Minimum	1 story; single story buildings shall be 18 to 24 feet in height.	27-230 for transition yards; 27-105(a)(9)e for perimeter buffer; 27-105(b)(2) for floor-to-floor heights per Building Type
	Maximum: less than 100 feet from a lot line adjacent to single family zoning district	3 stories or 35 feet, whichever is less	
	Maximum: between 100 feet and 500 feet from a lot line adjacent to single family zoning district	5 stories or 70 feet, whichever is less	
	Maximum: greater than 500 feet to a lot line adjacent to single family zoning district	14 stories or 180 feet, whichever is less	
	Additional Height: in any location	Additional height may be approved as a condition of rezoning or, if already zoned, with a special land use permit	
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway	●	27-98(b) Street Types
	Primary Street	●	
	Secondary Street	●	
	Secondary Street Narrow		
SITE COVERAGE	Maximum Impervious Cover	65 percent	27-621 Terms Defined
	Maximum Impervious plus Semi-Pervious Cover	75 percent	
OPEN SPACE REQUIREMENTS	One Open Space Type is required within 1/4 of a mile of the principal entrance(s) to each building. For developments over 18 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size.		27-106 Open Space Types
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		
	Plaza	●	
	Green	●	
	Commons	●	
	Park	●	

● = permitted

● = permitted

Figure 27-104-3. PC-2 District Requirements

(c) *PC-2 district.* Requirements for this district are provided in figure 27-104-3, PC-2 district requirements.

- (1) *Description and intent.* The PC-2 district is meant primarily for employment uses, residential buildings, and limited shopfront retail and services.

PC-3 DISTRICT REQUIREMENTS			Reference
PERMITTED BUILDING TYPES	Shopfront	● Minimum 80% of the length of all Primary Street frontages shall be fronted with Shopfronts. Refer to Figure 27-98-2 Street Types Map.	
	General	●	27-105 Building Types
	Townhouse	●	
	Detached House		
	Civic	●	
USE MIX	Minimum Mix of Uses	No mix required	27-104(f) Uses
HEIGHT	Minimum	1 story; single story buildings shall be 18 to 24 feet in height.	27-230 for transition yards;
	Maximum: less than 100 feet from a lot line adjacent to single family zoning district	3 stories or 35 feet, whichever is less	27-105(a)(9)e for perimeter buffer;
	Maximum: 100 feet or greater to a lot line adjacent to single family zoning district	5 stories or 70 feet, whichever is less	27-105(b)(2) for floor-to-floor heights per Building Type
	Additional Height: in any location	Additional height may be approved as a condition of rezoning or, if already zoned, with a special land use permit	
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway	●	
	Primary Street	●	27-98(b) Street Types
	Secondary Street	●	
	Secondary Street Narrow		
SITE COVERAGE	Maximum Impervious Cover	75 percent	27-621 Terms Defined
	Maximum Impervious plus Semi-Pervious Cover	85 percent	
OPEN SPACE REQUIREMENTS	One Open Space Type is required within 1/4 of a mile of the principal entrance(s) to each building. For developments over 18 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size.		
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		
	Plaza	●	27-106 Open Space Types
	Green	●	
	Commons	● Permitted but shall not be used to meet open space requirement.	
	Park	●	

● = permitted

Figure 27-104-4. PC-3 District Requirements

- (d) *PC-3 district.* Requirements for this district are provided in figure 27-104-4, PC-3 district requirements.
- (1) *Description and intent.* The PC-3 district is a smaller scale less intensive commercial district, permitting both shopfront buildings and office buildings.



PC-4 DISTRICT REQUIREMENTS			Reference
PERMITTED BUILDING TYPES	Shopfront		
	General	●	
	Townhouse	●	27-105 Building Types
	Detached House	●	
	Civic	●	
USE MIX	Minimum Mix of Uses	No mix required	27-104(f) Uses
HEIGHT	Minimum	1 story	
	Maximum	3 stories or 42 feet, whichever is less; additional height may be approved as a condition of rezoning or, if already zoned, with a special land use permit	27-105(b)(2) for floor-to-floor heights per Building Type
STREETS & BLOCKS	Streets & Block Configurations	Required per Figure 27-104-1 Regulating Map & Figure 27-98-2 Street Types Map	27-98(c) Streets & Blocks
	Minor Parkway		
	Primary Street	●	27-98(b) Street Types
	Secondary Street	●	
	Secondary Street Narrow	●	
SITE COVERAGE	Maximum Impervious Cover	60 percent	
	Maximum Impervious plus Semi-Pervious Cover	70 percent	27-621 Terms Defined
OPEN SPACE REQUIREMENTS	One Open Space Type is required within 1/8 of a mile of the principal entrance(s) to each building. For developments over 18 acres, at least one Open Space Type shall be a minimum of 1 contiguous acre in size.		
	When multiple open spaces are required, no more than 2 of any one type may be utilized to meet the required open space.		
	Plaza		27-106 Open Space Types
	Green	●	
	Commons	●	
	Park	●	

● = permitted  
○ = permitted under listed conditions

Figure 27-104-5. PC-4 District Requirements

- (e) *PC-4 district.* Requirements for this district are provided in figure 27-104-5, PC-4 district requirements.
- (1) *Description and intent.* The PC-4 district is primarily meant for residential uses at a scale that provides a transition between the intensity of Perimeter Center and the surrounding single-family residential neighborhoods.

- (f) *Uses.* The following applies to all Perimeter Center districts.
- (1) *Use table.* The following apply to the uses outlined in this section. Refer to figure 27-104-6, table of permitted uses.
    - a. *Use categories.* Refer to [sections] 27-111 through 27-116.
    - b. *Permitted and special uses.* Each use may be permitted as-of-right, permitted with a special administrative permit, permitted as a special exception, or permitted with a special land use permit. Refer to [section] 27-111(4), use tables.
    - c. *Number of uses.* A lot may contain more than one use.
    - d. *Principal and accessory uses.* Each of the uses may function as either a principal use or accessory use on a lot, unless otherwise specified.
    - e. *Building type.* Each use shall be located within a permitted building type (refer to [section] 27-105, building types), unless otherwise specified.
  - (2) *Use subcategories.* For the purposes of fulfilling the use mix requirements defined in each district table (refer to [section] 27-104(b), PC-1 district through [section] 27-104(e), PC-4 district), utilize the following subcategories of uses, consisting of those uses listed in the table, right, that may contribute to the mix. Some permitted uses are not included.
    - a. *Lodging and residence subcategory.*
      - Household living
      - Group living
      - Lodging
    - b. *Civic subcategory.*
      - Club or lodge, private
      - Cultural exhibit
      - Educational services
      - Hospital
      - Place of worship
    - c. *Office subcategory.*
      - Construction and building sales and service
      - Medical service
      - Office or consumer service
      - Research and testing services
    - d. *Retail sales subcategory*
      - Retail sales
      - Food and beverage retail sales
    - e. *Service use subcategory.*
      - Animal services

Day care

Repair or laundry services, consumer

Personal improvement services

Eating and drinking establishments

Financial services

Entertainment and spectator sports

Sports and recreation, participant

USES	DISTRICTS				Reference
	PC-1	PC-2	PC-3	PC-4	
RESIDENTIAL					
Household Living					
Detached house	—	—	—	P	
Attached house	—	P[1]	P[1]	P[1]	
Multi-unit building, rental	S	S	S	S	
Multi-unit building, owner- occupied	P	P	P	P	
Age-Restricted Multi-unit building, rental	S	S	S	S	
Age-Restricted Multi-unit building, owner-occupied	P	P	P	P	
Group Living	—	S	S	S	
QUASI-PUBLIC & INSTITUTIONAL					
Ambulance Service	S	S	S	S	
Club or Lodge, Private	P	P	P	—	
Cultural Exhibit	P	P	P	P	
Day Care	P	P	P	P	
Educational Services	S	S	S	S	
Hospital	S	S	S	—	
Place of Worship	P	P	P	P	27-146
Utility Facility, Essential	P	P	P	E	27-151
COMMERCIAL					
Animal Services	P	P	S	—	27-131
Communication Services					
Telecommunications antenna mounted to building or similar structure	A	A	A	A	27-150
All other	P	P	P	P	
Standalone tower	S	S	S	S	
Construction and Building Sales and Services	P	P	P	—	
Eating and Drinking Establishments					
Food truck	P	P	P	—	27-138

Figure 27-104-6. Table of Permitted Uses

USES	DISTRICTS				Reference
	PC-1	PC-2	PC-3	PC-4	
Other eating or drinking establishment	P	P	P	—	
Drive-through Facility	S	S	S	—	27-98(d)
<b>Entertainment and Spectator Sports</b>					
Indoor	P	P	P	—	
Outdoor	S	S	S	—	
<b>Financial Services</b>					
Banks, credit unions, brokerage and investment services	P	P	P	—	
<b>Food and Beverage Retail Sales</b>					
	P	P	P	—	
<b>Funeral and Interment Services</b>					
	P	P	P	—	
<b>Lodging</b>					
	P	P	P	S	
<b>Medical Service</b>					
	P	P	P	—	
<b>Office or Consumer Service</b>					
	P	P	P	—	
<b>Parking, Non-accessory</b>					
	S	S	S	S	27-98(d)
<b>Personal Improvement Service</b>					
	P	P	P	—	
<b>Repair or Laundry Service, Consumer</b>					
	P	P	P	—	
<b>Research and Testing Services</b>					
	P	P	P	—	
<b>Retail Sales</b>					
	P	P	P	—	
<b>Sports and Recreation, Participant</b>					
Indoor	P	P	P	—	
Outdoor	S	S	S	—	
<b>Vehicle and Equipment, Sales and Service</b>					
Gasoline sales	—	—	S	—	27-98(d)
Vehicle sales and rental (Indoor only)	P	P	P	—	27-154
Vehicle repair, minor	—	—	S	—	27-153

P = use permitted as of right  
A = special administrative permit required  
E = special exception required  
S = special land use permit required

[1] Where more than 10% of the units are rental, a special land use permit is required.

(g) *Sustainability measures.*

- (1) *Intent.* The following requirements are intended to further the sustainability goals of the city defined in the most current sustainability plan adopted by the city.

- (2) *Applicability.* The sustainable development measures in this section shall be addressed by all new developments in a Perimeter Center (PC) district that involve the complete replacement of an existing building or construction of a new building.
- (3) *Calculation and evaluation.*
- Minimum points required.* The applicant shall achieve no fewer than seven points from any combination of the sustainable development measures as valued in figure 27-104-7, sustainability measures and values. No partial points will be accepted.
  - Minimum requirements of the measure.* All points shall be awarded based on meeting the minimum requirements of each sustainability measure, as indicated in this section.
  - Newly constructed measures.* Measures count only if they are part of the new development application; measures already in place at the time of application do not count, unless otherwise approved by the community development director.
  - Required documentation.* The following documentation is required:
    - Documentation of which measures and total number of points the applicant will achieve shall be indicated on the development permit application submitted to the city (refer to article V, division 9).
    - Documentation is required to clearly illustrate the extent to which the minimum requirements of each of the selected measures is to be met through permanent construction or policies.

	MEASURES	VALUE
ENERGY CATEGORY	Building Energy Efficiency	3 points
	Renewable Energy Sources	5 points
	Green Roof	4 points
	Heat Island Reduction	2 points
WATER CATEGORY	Building Water Efficiency	2 points
	Water-Efficient Landscaping	1 points
	Pervious Pavement	2 points
TRANS-PORTATION CATEGORY	Enhanced Bicycle Amenities Measure	1 to 2 points
	Transportation Access Measure	4 points
ALTERNATIVE	Alternative Measure	1 to 3 points

Figure 27-104-7 Sustainability Measures & Values

- (4) *Energy category measures.*
- Energy efficiency.* Newly constructed buildings must demonstrate an average ten-percent improvement over the energy code currently in effect in the city.
  - Renewable energy.* Incorporate renewable energy generation on-site with production capacity of at least five percent of the building's annual electric or thermal energy, established through an accepted building energy performance simulation tool. The following

renewable energy generation sources are applicable: solar thermal or photovoltaics, ground-sourced heating or cooling, fuel cells and microturbines using non-fossil fuel, wind energy conversion. Other means of generating electricity without using a fuel, such as kinetic, heat exchange, approved by the community development director.

- c. *Green roof.* Install a vegetated roof for at least 50 percent of any building roof area or roof deck; a minimum of 2,500 square feet is required to receive credit.
- d. *Heat island reduction.* Use any combination of the following strategies for 35 percent of all on-site, non-roof hardscape areas, including sidewalks, plazas, courtyards, parking lots, parking structures, and driveway: coverage of the surface at canopy tree maturity in 15 years, and/or solar reflective paving and roofing with a SRI (solar reflectance index) of at least 29.

(5) *Water category measures.*

- a. *Building water efficiency.* Indoor water use in new buildings and major renovations must be an average 20 percent less than in baseline buildings. Baseline water usage shall be determined based on fixtures per the Energy Policy Act of 1992 and subsequent rulings by the United States Department of Energy or a similar method approved by the community development director.
- b. *Water-efficient landscaping.* Reduce potable water used for landscape irrigation by 50 percent from a calculated midsummer baseline case by using either one of the following methods: utilizing all xeriscape plant materials and providing no permanent irrigation system, or using only captured rainwater with an irrigation system.
- c. *Pervious pavement.* Install an open grid or pervious pavement system that is at least 40 percent pervious on 65 percent of all hardscape surface areas, including sidewalks, plazas, courtyards, parking lots, and driveways. The water shall be directed into the groundwater or other acceptable storm accommodation per the public works director.

(6) *Transportation category measures.*

- a. *Enhanced bicycle amenities measure.* Inclusion of two of the following earns one point. Inclusion of three of the following earns two points.
  - 1. *Lockable enclosed bicycle storage.* Provide one secure, enclosed bicycle storage space for ten percent of planned employee occupancy with no more than ten spaces required.
  - 2. *Employee shower facilities.* Provide a minimum of one shower facility per 150 employees, minimum of one total.
  - 3. *Repair center.* Provide a designated bicycle repair center open to the public and consisting of, at least one air pump, water, and basic tools for minor repairs.
- b. *Transportation access measure.* Site must be within one-fourth mile of existing or proposed transit stop with provision of enhanced access to transit and shall include one or more of the following.
  - 1. Construction of a bus turnout on development property or in adjacent street right-of-way.
  - 2. Construction of additional shared use paths other than those required per [section] 27-98(b)(3)d, shared use paths.
  - 3. Provision of direct platform connection to rail station.
  - 4. Additional easement for provision or enhancement of transit.
  - 5. Other items approved by the public works director.

- (7) *Alternative measure.* The applicant may submit an alternative sustainable development measure for approval by the community development director. The measure shall further a sustainability

goal and shall not be considered standard practice for current developments. The measure shall be unrelated to any of the other measures defined in this section. Based upon their review, the community development director shall approve for the number of points to be awarded. Required documentation shall clearly illustrate that the measure furthers a sustainability goal.

(Ord. No. 2017-05-14, § 2(Exh. B), 5-22-2017; Ord. No. 2019-01-03, § I, 1-28-2019)

~~Sec. 27-574.5. Floor area ratio (FAR).~~

~~A building's floor area ratio (FAR) is calculated by dividing the total floor area of all buildings on a lot by total area of the lot on which the buildings are located.~~

~~(Ord. No. 2017-04-07, § 5, 4-11-2017)~~



## ARTICLE V. - REVIEW AND APPROVAL PROCEDURES

### DIVISION 1. - COMMON (PROCEDURAL) PROVISIONS

#### Sec. 27-301. - Applicability.

The common provisions of this division apply to all of the review and approval procedures (division 2 through division 9) of this zoning ordinance unless otherwise expressly stated.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.10), 10-14-2013)

#### Sec. 27-302. - Georgia Zoning Procedures Law.

- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.20), 10-14-2013)

#### Sec. 27-303. - Developments of regional impact.

- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.30), 10-14-2013)

#### Sec. 27-304. - 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	Zoning Board of Appeals	Community Council	Planning Commission	Mayor and City Council

R = review and recommendation \ DM = decision-making body (final decision) \ <R> = public hearing							
Comprehensive Plan Land Use Map Amendments	Article V, Division 2	R	-	-	R	<R>	<DM>
Zoning Ordinance Text and Map Amendments	Article V, Division 2	R	-	-	R	<R>	<DM>
Special Land Use Permits	Article V, Division 3	R	-	-	-	<R>	<DM>
Variances	Article V, Division 5	R	-	<DM>	-	-	=
<u>Concurrent Variances</u>	<u>Article V, Division 5</u>	<u>R</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>&lt;R&gt;</u>	<u>&lt;DM&gt;</u>
Special Exceptions	Article V, Division 6	R	-	<DM>	-	-	=
<u>Concurrent Special Exceptions</u>	<u>Article V, Division 6</u>	<u>R</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>&lt;R&gt;</u>	<u>&lt;DM&gt;</u>
Administrative Permits	Article V, Division 7	DM	-	-	-	-	-
Appeals of Administrative Decisions	Article V, Division 8	-	-	DM	-	-	-
Development Permits	Article V, Division 9	DM	R[1]	-	-	-	-

[1] Responsible for review and recommendation only where expressly indicated in this zoning ordinance.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.40), 10-14-2013)

Sec. 27-305. - Pre-application conferences.

- (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.
- (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.
- (c) *Scheduling.* Pre-application conferences must be scheduled with community development department staff.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.50), 10-14-2013)

Sec. 27-306. - Applicant-initiated meeting.

- (a) *Purpose.* The purpose of applicant-initiated meeting 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.
- (b) *Applicability.* Applicant-initiated meetings are required to be held whenever the provisions of this zoning ordinance expressly state that they are required. They are encouraged in all cases.
- (c) *Written notice.* The applicant or his/her representative is responsible for completing all requirements of this section. Written notice is required for all applicant-initiated meetings and will be sent via first class mail to the owners of all residentially zoned property within 1,000 feet of the boundaries of the subject property, as those property owners are listed on the tax records of DeKalb County. The notices must be mailed at least 20 days before the date of the applicant-initiated meeting. Written notices must indicate the nature of the application, the street address of the subject property, and the date, time, place and purpose of the meeting.

In addition to the above notice procedures the following shall be performed:

- (1) A notice of the meeting shall be sent to the city planner at the current address of Dunwoody City Hall.
- (2) At least seven days before but not more than 30 days before the date of the applicant-initiated meeting, notice of the meeting must be published in the official legal organ of the city.
- (d) *Scheduling meeting.* The applicant initiated meeting must be held between the hours of 6 PM and 8 PM, Monday through Thursday, or between the hours of 12 PM and 9 PM, Saturday and Sunday, for a period of no less than one (1) hour, at a public location within the City of Dunwoody.
- (e) *Summary report.* The applicant must submit a summary of the applicant-initiated meeting at the time of application submittal. The summary report must describe:
  - (1) Efforts to notify neighbors about the meeting date, time, and location (how and when notification occurred, and who was notified);
  - (2) Meeting location, date and time;
  - (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 meeting.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.60), 10-14-2013; Ord. No. 2015-06-11, § 1, 6-8-2015; Ord. No. 2019-01-03, § III, 1-28-2019)

**Editor's note**— Section 1 of Ord. No. 2015-06-11, adopted June 8, 2015, changed the title of § 27-306 from "Neighbor communication summary" to read as herein set out.

Sec. 27-307. - Applications and fees.

(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.

(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.

(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 section 27-308.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.70), 10-14-2013)

Sec. 27-308. - 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:

- (1) Deadlines for receipt of complete applications;
- (2) Timeframes for determination of application completeness;
- (3) Dates of regular meetings;
- (4) Timing of staff reviews and reports;
- (5) Estimated timeframes for completion of reviews and decision-making;
- (6) Timelines for consideration of comprehensive plan amendments (e.g., annual or semiannual); and
- (7) Other information regarding administrative practices and customs that will assist applicants and the general public.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.80), 10-14-2013)

Sec. 27-309. - Withdrawal of applications.

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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.90), 10-14-2013)

Sec. 27-310. - Public hearings.

- (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.
- (b) *Applicant attendance.* Applicants must appear at public hearings in person or be represented in person by their authorized agent.
- (c) *Public notices.* The cost of all required and courtesy public notices must be paid by the applicant in addition to all other required application fees.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.100), 10-14-2013)

Sec. 27-311. - Action by the planning commission and mayor and city council.

- (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.
- (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.

- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.110), 10-14-2013)

Sec. 27-312. - 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:

- (1) 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.
- (2) Conditions must be of sufficient specificity to allow lawful and consistent application and enforcement.
- (3) Conditions shall be supported by a record that evidences the relationship between the condition and the impacts of proposed use or development.
- (4) Once imposed, conditions run with land and will be enforced on all present and future property owners and successors in interest.
- (5) 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 V, division 3, or article V, division 5, respectively)

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.120), 10-14-2013)

Sec. 27-313. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-17.130), 10-14-2013)

Secs. 27-314—27-325. - Reserved.

DIVISION 2. - AMENDMENTS

Sec. 27-326. - Applicability.

The procedures of this division 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.10), 10-14-2013)

Sec. 27-327. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.20), 10-14-2013)

Sec. 27-328. - Pre-application conference.

Pre-application conferences with staff are required for all owner-initiated amendment applications (see the pre-application provisions of section 27-305).

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.30), 10-14-2013)

Sec. 27-329. - Applicant-initiated meeting.

Applicant-initiated meetings are required for all owner-initiated applications for amendments (see the applicant-initiated meeting provisions of section 27-306). If there is no residential zoned property within 500 feet of the property under consideration, the applicant is exempt from applicant-initiated meeting requirements.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.40), 10-14-2013; Ord. No. 2015-06-11, § 1, 6-8-2015)

**Editor's note**— Section 1 of Ord. No. 2015-06-11, adopted June 8, 2015, changed the title of § 27-329 from "Neighbor communications summary" to read as herein set out.

Sec. 27-330. - Application filing.

- (a) Owner-initiated applications for comprehensive plan land use map amendments and zoning map amendments must be filed with the community development director.
- (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.
- (c) Any site plan filed as a proposed condition must be prepared, signed and sealed by a state-licensed architect, landscape architect or engineer.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.50), 10-14-2013)

Sec. 27-331. - Public hearing notices.

- (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.
- (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.
- (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.
- (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 six-column inches in size and may not be located in the classified advertising section of the newspaper.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.60), 10-14-2013)

Sec. 27-332. - Reserved.

**Editor's note**— Section 1 of Ord. No. 2015-06-11, adopted June 8, 2015, repealed former § 27-332 which pertained to community council meeting and recommendation, and derived from Ord. No. 2013-10-15, § 1(Exh. A § 27-18.70), adopted Oct. 14, 2013; and Ord. No. 2015-01-05, § 1, adopted Jan. 26, 2015.

Sec. 27-333. - Planning commission public hearing and recommendation.

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 section 27-335. Per section 27-311 the planning commission may vote to defer action or continue a hearing in order to receive additional information or deliberate further. The planning commission's recommendation must be transmitted to the mayor and city council.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.80), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-334. - City council public hearing and decision.

- (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 section 27-335. 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.

- (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 six months before and not more than nine months before the date of final action on the application.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.90), 10-14-2013)

Sec. 27-335. - Review and approval criteria.

- (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;
  - (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.
- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.100), 10-14-2013)

Sec. 27-336. - 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 six months.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.110), 10-14-2013)

Sec. 27-337. - Amending conditions of approval.

(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 to which it is adjacent;
  - 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 reduction 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 division, including the requirement for fees, notices and hearings.

(b) *Minor changes.*

- (1) Modification of conditions attached to an approved amendment that are not classified as a major change pursuant to subsection (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-18.120), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Secs. 27-338—27-350. - Reserved.

### DIVISION 3. - SPECIAL LAND USE PERMITS

Sec. 27-351. - Applicability.

The procedures of this division apply to all special land use permits (also known as "SLUPs") required under this zoning ordinance.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.10), 10-14-2013)

Sec. 27-352. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.20), 10-14-2013)

Sec. 27-353. - Pre-application conference.

Pre-application conferences with staff are required for all special land use permits (see the pre-application provisions of section 27-305).

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.30), 10-14-2013)

Sec. 27-354. - Applicant-initiated meeting.

Applicant-initiated meetings are required for all special land use permits (see the applicant-initiated meeting provisions of section 27-306). If there is no residential zoned property within 500 feet of the property under consideration, the applicant is exempt from applicant-initiated meeting requirements.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.40), 10-14-2013; Ord. No. 2015-06-11, § 1, 6-8-2015)

**Editor's note**— Section 1 of Ord. No. 2015-06-11, adopted June 8, 2015, changed the title of § 27-354 from "Neighbor communications summary" to read as herein set out.

Sec. 27-355. - Application filing.

Special land use permit applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.50), 10-14-2013)

Sec. 27-356. - Public hearing notices.

- (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.
- (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 hearing. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.
- (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.
- (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 six-column inches in size and may not be located in the classified advertising section of the newspaper.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.60), 10-14-2013)

Sec. 27-357. - Planning commission public hearing and recommendation.

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 section 27-359. Per section 27-311 the planning commission may vote to defer action or continue a hearing in order to receive additional information or deliberate further. The planning commission's recommendation must be transmitted to the city council.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.70), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-358. - City council public hearing and decision.

- (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 section 27-359. 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.
- (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 of drug dependency, the mayor and city council public hearing must be held at least six months before and not more than nine months before the date of final action on the application.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.80), 10-14-2013)

Sec. 27-359. - Review and approval criteria.

- (a) *General.* Except as otherwise stated in this ordinance, the following review and approval criteria must be used in reviewing and taking action on all special land use permit applications:
- (1) Whether the proposed use is consistent with the policies of the comprehensive plan;
  - (2) Whether the proposed use complies with the requirements of this zoning ordinance;
  - (3) 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;
  - (4) Whether the proposed use is compatible with adjacent properties and land uses, including consideration of:
    - a. 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;
    - b. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
    - c. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;
    - d. 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;
    - e. 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
    - f. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources.
  - (5) Whether public services, public facilities and utilities—including motorized and nonmotorized transportation facilities—are adequate to serve the proposed use;
  - (6) 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;
  - (7) Whether adequate provision has been made for refuse and service areas; and
  - (8) Whether the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.
- (b) *Major exceptions to perimeter center regulations.* The general criteria of subsection (a) do not apply to special land use permit requests for major exceptions to Perimeter Center Overlay and Perimeter Center zoning district regulations. In reviewing and taking action on special land use permit requests for major exceptions to Perimeter Center Overlay and Perimeter Center zoning district regulations, review and decision-making bodies must consider the following three criteria:
- (1) Whether the major exception request, if granted, will result in development that is inconsistent with the stated intent of the regulations;
  - (2) Whether the major exception request, if granted, will result in development that is in keeping with the overall character of the surrounding area; and
  - (3) Whether any negative impacts resulting from the granting of the major exception will be mitigated to the maximum practical extent.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.90), 10-14-2013; Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-360. - 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 six months.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.100), 10-14-2013)

Sec. 27-361. - Amending conditions of approval.

(a) Major changes.

- (1) Without limiting the meaning of the phrase, modification of any of the following conditions, if attached to an approved special land use permit, 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 to which it is adjacent;
  - 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 reduction 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 division, including the requirement for fees, notices and hearings.

(b) Minor changes.

- (1) Modification of conditions attached to an approved special land use permit that are not classified as a major change pursuant to subsection (a)(1), constitute a "minor change" for purposes of interpreting this section.
  - (2) The community development director is authorized to approve minor changes to approved special land use permits.
  - (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.
- (c) 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 division, including the requirements for fees, notices and hearings.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-19.120), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

**Editor's note**— Section 1 of Ord. No. 2015-01-05, adopted Jan. 26, 2015, repealed former § 27-361 which pertained to transfer of special land use permits, and derived from Ord. No. 2013-10-15, § 1(Exh. A § 27-19.110), adopted Oct. 14, 2013. Said ordinance subsequently amended and renumbered former § 27-362 as § 27-361.

Secs. 27-362—27-375. - Reserved.

#### DIVISION 4. - DESIGN REVIEW

##### Sec. 27-376. - Applicability.

The procedures of this division apply whenever design review is expressly required by this zoning ordinance.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-20.10), 10-14-2013)

##### Sec. 27-377. - Authority to file.

Applications for design review may be filed by the owner of the subject property or the property owner's authorized agent.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-20.20), 10-14-2013)

##### Sec. 27-378. - Application filing.

Design review applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-20.30), 10-14-2013)

##### Sec. 27-379. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-20.40), 10-14-2013)

##### Sec. 27-380. - 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 regulations If no recommendation is received within 14 days, the community development director is authorized to proceed without a recommendation.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-20.50), 10-14-2013)

Secs. 27-381—27-390. - Reserved.

## DIVISION 5. - VARIANCES

### Sec. 27-391. - Applicability.

Except as expressly authorized under the special exception procedures of article V, division 6, or the administrative permit procedures of article V, division 7, 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 division.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.10), 10-14-2013)

### Sec. 27-392. - Prohibited variances.

The variance procedures of this zoning ordinance may not be used to:

- (1) 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;
- (2) Allow an increase in maximum building height;
- (3) 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;
- (4) 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;
- (5) Permit the expansion or enlargement of any nonconforming use;
- (6) Permit the reestablishment of any nonconforming use that has been abandoned or lost its nonconforming rights; or
- (7) Vary the home occupation regulations.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2017-04-07, § 4, 4-11-2017)

### Sec. 27-393. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.30), 10-14-2013)

### Sec. 27-394. - Application filing.

Variance applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.40), 10-14-2013)

### Sec. 27-395. - Public hearing notices.

- (a) *Published notice.* At least 30 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.



- (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 30 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.
- (c) *Posted notice.* A public hearing notice sign must be placed in a conspicuous location on the subject property at least 30 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.50), 10-14-2013)

Sec. 27-396. - Zoning board of appeals public hearing and decision.

- (a) The zoning board of appeals must hold a public hearing to consider all variance applications.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.60), 10-14-2013)

Sec. 27-397. - Review and approval criteria.

- (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 detrimental to the public health, safety or welfare or injurious to property or improvements;
  - (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) Because of the particular conditions, shape, size, orientation or topographic conditions, 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 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 zoning ordinance and the comprehensive plan.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.70), 10-14-2013)

Sec. 27-398. - 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 six months.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.80), 10-14-2013)

Sec. 27-399. - Appeals.

- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.90), 10-14-2013)

Sec. 27-400. - Transfer of variances.

Approved variances, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.100), 10-14-2013)

Sec. 27-401. - 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 division, including the requirements for fees, notices and hearings.

Sec. 27-402 – Concurrent variances.

- a) Applicability. This section applies to variances sought simultaneously with a zoning map amendment or with a special land use permit.
- b) Authority. The city council may consider variances that would otherwise require approval under Article V, Division 6. The Planning Commission shall also hear and make recommendations on concurrent variances.
- c) Public hearing notices. Public notification for concurrent variances shall follow the standards set in Section 27-331 for concurrent variances sought simultaneously with a zoning map amendment or the standards set in Section 27-356 for concurrent variances sought simultaneously with a special land use permit.
- d) Public hearings and decision.
  - (1) The planning commission shall make a recommendation to the city council on the requested variance in addition to its recommendation on the companion map amendment or special land use permit application.
  - (2) The city council shall take action on the concurrent variance request by incorporating each concurrent variance into the motion for action on the companion map amendment or special land use permit application.
- e) Review and approval criteria. In taking action on concurrent variance requests, the city council shall apply the variance review and approval criteria of section 27-397. The planning commission's review shall also be based on the variance review and approval criteria of section 27-397.
- f) No duplicative review. A variance request to the zoning board of appeals may not be considered simultaneously with a concurrent variance request.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-21.110), 10-14-2013)

Secs. 27-4023—27-415. - Reserved.

DIVISION 6. - SPECIAL EXCEPTIONS

Sec. 27-416. - Applicability.

The zoning board of appeals is authorized to approve the following as special exceptions in accordance with the procedures of this division:

- (1) Any use or activity expressly authorized to be approved as a special exception pursuant to the provisions of this zoning ordinance;

(2) Increase of maximum off-street parking by more than allowed as an administrative permit.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.10), 10-14-2013; Ord. No. 2019-07-14, § 1, 7-22-2019)

Sec. 27-417. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.20), 10-14-2013)

Sec. 27-418. - Application filing.

Special exception applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.30), 10-14-2013)

Sec. 27-419. - Public hearing notices.

- (a) *Published notice.* At least 30 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.
- (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 30 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.
- (c) *Posted notice.* A public hearing notice sign must be placed in a conspicuous location on the subject property at least 30 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.40), 10-14-2013)

Sec. 27-420. - Zoning board of appeals public hearing and decision.

- (a) The zoning board of appeals must hold a public hearing to consider all special exception applications.
- (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.
- (c) The zoning board of appeals decision to approve or deny must be based on the approval criteria of section 27-421.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.50), 10-14-2013)

Sec. 27-421. - Review and approval criteria.

- (a) *Parking and loading increases.* The zoning board or appeals may approve an increase to the maximum number of parking spaces or the maximum number of loading spaces in any district upon an expressed finding that:
  - (1) The maximum motor vehicle parking ratios do not accurately reflect the actual parking demand that can reasonably be anticipated for the proposed use.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.60), 10-14-2013; Ord. No. 2019-07-14, § 1, 7-22-2019)

Sec. 27-422. - Appeals.

- (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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.70), 10-14-2013)

Sec. 27-423. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.80), 10-14-2013)

Sec. 27-424. - 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 division, including the requirements for fees, notices and hearings.

Sec. 27-425 – Concurrent special exceptions.

- a) Applicability. This section applies to special exceptions sought simultaneously with a zoning map amendment or with a special land use permit.
- b) Authority. The city council may consider special exceptions that would otherwise require approval under Article V, Division 6. The Planning Commission shall also hear and make recommendations on concurrent special exceptions.
- c) Public hearing notices. Public notification for concurrent special exceptions shall follow the standards set in Section 27-331 for concurrent special exceptions sought simultaneously with a zoning map amendment or the standards set in Section 27-356 for concurrent special exceptions sought simultaneously with a special land use permit.
- d) Public hearings and decision.
  - (1) The planning commission shall make a recommendation to the city council on the requested special exception in addition to its recommendation on the companion map amendment or special land use permit application.
  - (2) The city council shall take action on the concurrent special exception request by incorporating each concurrent special exception into the motion for action on the companion map amendment or special land use permit application.
- e) Review and approval criteria. In taking action on concurrent special exception requests, the city council shall apply the special exception review and approval criteria of section 27-421. The planning commission's review shall also be based on the special exception review and approval criteria of section 27-421.
- f) No duplicative review. A variance request to the zoning board of appeals may not be considered simultaneously with a concurrent special exception request.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-22.90), 10-14-2013)

Secs. 27-42~~56~~—27-435. - Reserved.

#### DIVISION 7. - SPECIAL ADMINISTRATIVE PERMITS<sup>[2]</sup>

Footnotes:

--- (2) ---

**Editor's note**— Section 1 of Ord. No. 2015-01-05, adopted Jan. 26, 2015, changed the title of div. 7 from "Administrative Permits" to read as herein set out.

Sec. 27-436. - Applicability.

The community development director is authorized to approve the following as special administrative permits in accordance with the procedures of this division:

- (1) Any use or activity expressly authorized to be approved by special administrative permit pursuant to the provisions of this zoning ordinance;
- (2) Increase in maximum off-street motor vehicle parking and loading ratios by up to one space or 20 percent, whichever is greater and reductions in minimum bicycle parking ratios by up to two spaces or ten percent, whichever is greater;
- (3) Minor exceptions to those Perimeter Center Overlay and Perimeter Center zoning district regulations expressly identified in section 27-98(a)(7)a. and section 27-104(a)(5)a.;
- (4) Reduction of any zoning district building setback requirements by up to ten percent;
- (5) Reduction of any rear building setback, greater than ten percent, but no more than ten feet, for building additions not exceeding one story or 18 feet in height;
- (6) Type B home occupations that are solely teaching-related and conducted entirely within the principal dwelling;
- (7) Relatives residences;
- (8) Antennas that project more than ten feet above the height of the structure to which they are attached;
- (9) Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to ten percent;
- (10) Increase in the maximum front door threshold height allowed by section 27-147;
- (11) Increase in the maximum retaining wall height, as allowed by section 27-269;
- (12) Reduction of the minimum retaining wall setback requirement, as allowed by section 27-269;
- (13) Reduction of the minimum wing wall side setback requirement, as allowed by section 27-270; and
- (14) Increase in maximum fence height on residential corner lots, as allowed by section 27-267.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.10), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2017-04-07, § 4, 4-11-2017; Ord. No. 2018-03-05, § II, 3-26-2018; Ord. No. 2019-07-14, § 1, 7-22-2019)

Sec. 27-437. - Authority to file.

Applications for approval of special administrative permits may be filed by the owner of the subject property or the property owner's authorized agent.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-438. - Application filing.

Special administrative permit applications must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.30), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-439. - Posted notice.

A sign must be placed in a conspicuous location on the subject property at least 30 days before the date of the community development director's decision on the special administrative permit request. 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.40), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-440. - Community development director's decision.

- (a) The community development director must review each application for a special 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.
- (b) The community development director may not take final action to approve or deny a special administrative permit application until at least 30 days after the date that posted notice was provided. All decisions must be made in writing within 60 days of the date that the application was filed, or if heard before the zoning board of appeals, as required in section 27-396.
- (c) The community development director's decision to approve or deny must be based on the approval criteria of section 27-441.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.50), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-441. - Review and approval criteria.

Special 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:

- (1) The grant of the administrative permit will not be detrimental to the public health, safety or welfare of the public or injurious to the subject property, adjacent properties, or improvements;
- (2) The requested administrative permit does not go beyond the minimum necessary to afford relief; and
- (3) The requested administrative permit is consistent with all relevant purpose and intent statements of this zoning ordinance.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.60), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2019-05-08, § 3, 5-6-2019)

Sec. 27-442. - Appeals.

Decisions by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the city's web page and in a newspaper of general circulation within the city. Appeal shall be in accordance with procedures and conditions in chapter 27, article V, division 8. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The ZBA decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.



(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.70), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-443. - Amending conditions of approval.

A request for changes in conditions of approval attached to an approved special administrative permit must be processed as a new special administrative permit application in accordance with the procedures of this division.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.90), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

**Editor's note**— Section 1 of Ord. No. 2015-01-05, adopted Jan. 26, 2015, repealed former § 27-443, which pertained to transfer of administrative permit, and derived from Ord. No. 2013-10-15, § 1(Exh. A § 27-23.80), adopted Oct. 14, 2013. Said ordinance subsequently amended and renumbered former §§ 27-444 and 27-445 as §§ 27-443 and 27-444.

Sec. 27-444. - Reporting.

The community development director must maintain records of all special administrative permits that have been approved or denied and provide a summary of such actions to the city council and planning commission at least four times per calendar year.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.100), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

**Editor's note**— See editor's note to § 27-443.

Secs. 27-445—27-455. - Reserved.

#### DIVISION 8. - APPEALS OF ADMINISTRATIVE DECISIONS

Sec. 27-456. - Applicability.

The procedures of this division apply to appeals of administrative decisions.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.10), 10-14-2013)

Sec. 27-457. - Authority to file.

Any person or entity (i.e., an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line aggrieved by an administrative decision may appeal the decision.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-458. - Application filing.

Decisions by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Appeal shall be in accordance with procedures and conditions of this division. 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 ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30-day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.30), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Sec. 27-459. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.40), 10-14-2013)

Sec. 27-460. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.50), 10-14-2013)

Sec. 27-461. - Hearing notice.

Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least 30 days before the date of the zoning board of appeals hearing.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.60), 10-14-2013)

Sec. 27-462. - Hearing and decision.

- (a) The zoning board of appeals must hold a hearing to consider all appeals of administrative decisions.
- (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.
- (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 of appeals 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.70), 10-14-2013)

Sec. 27-463. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.80), 10-14-2013)

Sec. 27-464. - Appeals.

- (a) Any person or entity authorized by section 27-457 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.
- (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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-24.90), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)

Secs. 27-465—27-475. - Reserved.

#### DIVISION 9. - DEVELOPMENT PERMITS

Sec. 27-476. - 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-25.10), 10-14-2013)

Sec. 27-477. - Applications.

All applications for development permits must be filed with the community development director.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-25.20), 10-14-2013)

Sec. 27-478. - 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).

(Ord. No. 2013-10-15, § 1(Exh. A § 27-25.30), 10-14-2013)

Sec. 27-479. - Permit expiration.

A development permit is valid for two years from its date of issuance, subject to the following provisions:

- (1) If the work authorized in any development permit has not begun within 180 days from the date of permit issuance, the permit expires and has no further effect.
- (2) If the work described in any development permit has not been substantially completed within two years of the date of permit issuance, the permit expires and has no further effect.
- (3) 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.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-25.40), 10-14-2013)

Sec. 27-480. - Reserved.

DIVISION 10. - SITE PLAN REVIEW<sup>[3]</sup>

Footnotes:

--- (3) ---

**Editor's note**— Ord. No. 2017-04-07, § 4, adopted April 11, 2017, enacted provisions designated as div. 10, §§ 27-485—27-493. Inasmuch as §§ 27-491—27-493 already exist within the Code, said provisions have been redesignated as div. 10, §§ 27-481—27-485, at the editor's discretion in order to avoid duplication.

Sec. 27-481. - Applicability.

- (a) *General.* Site plan review and approval, in accordance with the procedures of this division, is required before a land development permit may be issued.
- (b) *Exemptions.*
  - (1) Site plan review requirements do not apply to detached houses.
  - (2) The community development director is authorized to waive or modify the site plan review requirements for proposed construction activities and changes of use that will result in no significant exterior changes or site modifications.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-482. - Authority to file.

Applications and site plans may be filed by the owner of the subject property or the property owner's authorized agent.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-483. - Application filing.

Site plans must be filed with the community development director. The site plan must include at least the following information, unless waived by the community development director:

- (1) *Site location map.* Location of site within a half mile context of streets, rail lines, stations, and notable sites.
- (2) *Site data table.* Tabular summary comparing zoning requirements with proposed plans, including lot, building and site regulations and parking requirements,
- (3) *Survey plat.* Location and dimensions of property lines, easements, rights-of-way and a legal description of the site.
- (4) *Boundaries.* Development boundaries and proposed phasing (as applicable).
- (5) *Existing conditions plan.* Existing on-site and adjacent off-site structures, driveways, sidewalks, streets, utilities (underground and above ground), easements, and pavement noted either on an aerial photograph or site survey. Identify all structures proposed for demolition.
- (6) *Construction staging plan.* Plans for deliveries and storage of construction materials, location of employee parking and work areas, plans for site and adjacent right-of-way clean-up.
- (7) *Existing natural resources plan.* Existing topography, trees, vegetation, drainageways, floodplain/way, or other unique features including plans for removal or modifications of existing natural resource areas.
- (8) *Grading plan and site plan.* A preliminary grading plan and site plan delineating all proposed structures and surfaces, including parking, pavement, sidewalks, patios, landscape areas, retaining walls and any freestanding signs.
- (9) *Building plans.* Floor plans illustrating compliance with all applicable requirements of the Perimeter Center Overlay and Perimeter Center zoning district.
- (10) *Use requirements.* A table of uses is required on the building plan delineating locations and floor area of proposed uses, illustrating compliance with applicable use regulations.
- (11) *Building elevations.* Building elevations of all façades, rendered to illustrate compliance with the general building design criteria of the Perimeter Center Overlay (see section 27-98(d) and all applicable building type and design regulations of the underlying Perimeter Center zoning district (see section 27-105). Include information on colors and building materials.
- (12) *Landscape plan.* Plans illustrating compliance with all applicable landscaping, screening and transition regulations, including a tabular summary identifying all plant materials, sizes and graphic symbols used on the landscape plan.
- (13) *Parking plan.* Parking layout plan, including driveway and drive aisle location and design.
- (14) *Other information.* Any other information deemed necessary by the community development director to allow for competent review of the site plan or to demonstrate compliance with applicable regulations, expressly including Perimeter Center Overlay and Perimeter Center zoning district regulations.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-484. - Community development director's decision

- (a) The community development director must review each site plan and act to approve the site plan, approve the site plan with conditions, or deny site plan approval.
- (b) The community development director's decision must be based on the approval criteria of section 27-485.

- (c) Decisions to deny site plan approval must be accompanied by a written explanation of the reasons for denial.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-485. - Review criteria.

Special administrative permits may be approved by the community development director, after consulting with other city departments and affected agencies, only when the community development director determines that the proposed plan complies with all applicable regulations.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-486. - 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 V, division 8.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-487. - Transfer of site plan approval.

Approved site plans, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-488. - Amending conditions of approval.

A request for changes in conditions of approval attached to an approved site plan must be processed as a new site plan application in accordance with the procedures of this division.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-489. - Lapse of approval.

An approved site plan lapses and has no further validity or effect 12 months after the date of its approval unless a land development permit is issued for construction pursuant to the approved site plan. The community development director is authorized to grant up to two successive 12-month extensions if the community development director determines that there have been no changes to the zoning ordinance or land development regulations that would significantly affect the approved site plan. Site plan extension requests must be filed before the site plan lapses.

(Ord. No. 2017-04-07, § 4, 4-11-2017)

Sec. 27-490. - Reserved.

Sec. 27-150.1. - Telecommunication facilities and structures on private property.

- (a) *Application submittals.* Applications for administrative permit or special use permit in accordance with this section shall include the following:
- (1) Name, address, and telephone number of a principal officer and local agent of the applicant;
  - (2) Physical address of the parcel upon which the proposed antenna, telecommunication support structure or alternative telecommunication support structure is to be erected;
  - (3) Name of the person, firm, corporation, or association erecting the antenna, telecommunication support structure or alternative telecommunication support structure, including all parties with a prospective ownership interest in the proposed antenna, telecommunication support structure or alternative telecommunication support structure;
  - (4) Written consent of all parties with an existing ownership interest, including all underlying land owners and owners or licensees of any affected, existing telecommunication support structures or alternative telecommunication support structures, allowing the application;
  - (5) A site plan showing existing vegetation to be removed from the site and vegetation to be replanted to replace the vegetation that will be removed;
  - (6) A certified statement prepared by an engineer licensed in Georgia or other qualified industry professional indicating that the erection and operation of the proposed antenna, telecommunication support structure or alternative telecommunication support structure, including reception and transmission functions, will not interfere with public safety communications or the usual and customary transmission or reception of radio, television, or other telecommunication service enjoyed by adjacent properties;
  - (7) Proof of and/or certified copies of any required approval, registration, and/or licensure from the commission for any provider of telecommunications services to provide such services in the State of Georgia, where applicable, and any other required FAA, FCC, or otherwise state and federal approval, registration, and/or licensure required to erect the proposed antenna, new telecommunication support structure or alternative telecommunication support structure;
  - (8) Written certification that all emissions from any antenna on the telecommunication support structure will comply with FCC frequency emissions standards;
  - (9) For new telecommunication support structure applications, the applicant shall provide photo-simulated, post-construction renderings of the completed proposed telecommunication support structure equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any. The views shall incorporate before and after scenarios, a scaled, color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (generally north, south, east, and west). Based on the information provided the applicant may be required to provide other pictorial representations from other viewpoints including, but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents;
  - (10) The community development director may, at his sole discretion, require a balloon test to be conducted at any time during which an application is pending before the city;
  - (11) Six sets of accurate scale drawings including a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation including, but not limited to, the method of construction and attachment to the ground for the telecommunication support structure. The plans for the telecommunication support structure construction shall be certified by a registered structural engineer licensed in the State of Georgia as meeting all current safety and design standards of all applicable federal, state, and city codes, and shall show the location and dimensions of all improvements, including information concerning topography, radio frequency

coverage, telecommunication support structure height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the community development director to be necessary to assess compliance with this article. In addition, the report from the structural engineer must contain:

- a. Telecommunication support structure height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the telecommunication support structure shall be included;
  - b. Total anticipated capacity of the structure, including number and types of antenna(s) which can be accommodated;
  - c. Evidence of structural integrity of the proposed telecommunication support structure; and
  - d. Failure characteristics of the telecommunication support structure and demonstration that site and setbacks are of adequate size to contain debris.
- (b) *Approval criteria.* In reviewing and acting on administrative and special land use permit applications, authorized review and decision-making bodies must consider the following factors in addition to the generally applicable approval criteria of section 27-359 and 27-441, as applicable:
- (1) Height of the proposed facility;
  - (2) Proximity of the facility 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 facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  - (7) Compliance with of this section and section 27-150.
- (c) *Review process.*
- (1) All co-location antennas and any new small cell installation support structures require a special administrative permit from the community development director. Any new non-small cell telecommunication support structure requires a special use permit from the mayor and city council. Fees for administrative permits for small cell installations may not exceed \$500.00 for the first five locations, and \$100.00 for each additional location, requested simultaneously.
  - (2) For non-small cell technology installations, the community development director shall have 30 days in which to review the application for completeness in accordance with the requirements of this section, the Federal Telecommunications Act and any applicable state law. If the application is found to be incomplete, the community development director shall state so in writing to the applicant, detailing the specific Code section, statute or provision of federal law under which that determination was made. Upon the issuance of the written notice, the required federal and/or state decision clock shall be tolled until such time as an updated application is filed. If the application remains incomplete after the resubmission, said incompleteness may serve as valid reason for denial of the application by either the community development director or city council, as applicable.
  - (3) For small cell technology installations the community development director shall notify an applicant submitting an application of any identified deficiencies therein within ten calendar days of receipt of such an application. If the community development director determines an application is not complete, he shall notify the applicant in writing of said deficiencies. Upon resubmission of the application, the initial 10-day period shall not be counted towards the review period defined herein. The community development director shall have an additional ten calendar days to notify applicant of any other deficiencies in the re-submitted application. To the extent additional information is required after resubmission, the time required for an applicant to provide such information shall not be counted toward the review period set forth herein. If the application



remains incomplete after the second resubmission, said incompleteness may serve as valid reason for denial of the application.

- (4) The community development director must grant or deny an administrative permit within 60 days of the filing of a completed application for any small cell co-location and any co-location that does not substantially increase the size of the facility as defined in section 27-150, and within 90 days of the filing of a completed application for a new small cell facility structure and antenna. If a denial is issued, said denial must be in writing and include specific reason(s) for same as found in this section and based on substantial evidence in the record.
- (5) For applications requiring a special use permit, the procedure of article V, division III of the zoning ordinance must be utilized with the exception that the decision by the mayor and city council must be made within 150 days of the filing of a completed application and shall be in writing and based on substantial evidence in the record.
- (6) Decisions of the community development director denying an administrative permit may be appealed in accordance with the procedures and conditions in Chapter 27, Article V, Division 8.
- ~~(7) All decisions of the mayor and city council pursuant to this section may be appealed by the applicant by petition for writ of certiorari with the DeKalb County Superior Court in accordance with state law.~~

(Ord. No. 2019-12-20, § 1, 12-9-2019)

**AN ORDINANCE TO AMEND CHAPTER XXVI (STREETS, SIDEWALKS AND  
OTHER PUBLIC PLACES) OF THE CITY OF DUNWOODY CODE OF  
ORDINANCES; TO AMEND LANGUAGE FOR OBSTRUCTION IN THE RIGHT-  
OF-WAY;**

**WHEREAS**, obstructions in the Right-of-Way can create conditions dangerous to pedestrians, bikers, and motorists; and

**WHEREAS**, the City maintains ownership over its roads and other improvements in the right-of-way, and therefore reserves the right to exclude uses that conflict with the intended purpose of the infrastructure; and

**WHEREAS**, the City wishes to add language outlawing obstruction in the Right-of-Way; and

**WHEREAS**, the amendment is necessary to properly ensure the health, safety, and welfare of Dunwoody residents.

**NOW, THEREFORE**, the Mayor and City Council of the City of Dunwoody HEREBY ORDAIN that Chapter XXVI is amended as follows:

**Section I:**

[Add new Code Section 26-8]

Sec. 26-8. – Obstruction of the right-of-way.

- (a) No person shall place or cause to place in any street and/or sidewalk debris, rubbish, irrigation water, boxes, displays, signs, poles, goods, merchandise, plant materials, or any other object so as to impede and/or endanger traffic on streets and/or sidewalks.
- (b) No person or company shall construct or maintain a drive, yard, or lot constructed of gravel, pebbles, or stone in such a manner that vehicles cause loose stones, pebbles or gravel to be thrown on to the adjacent street and/or sidewalk.

Secs. 26-~~98~~—26-32. - Reserved.

**SO ORDAINED**, this \_\_\_\_ day of \_\_\_\_\_, 2021.

Approved:

STATE OF GEORGIA  
CITY OF DUNWOODY

**ORDINANCE 2021-XX-XX**

\_\_\_\_\_  
Lynn Deutsch, Mayor

ATTEST:

Approved as to Form and Content:

\_\_\_\_\_  
Sharon Lowery, City Clerk (Seal)

\_\_\_\_\_  
City Attorney

## ARTICLE I. - IN GENERAL

## Sec. 26-1. - Procedure for changing street names.

- (a) An application requesting a street name change shall be submitted to the department of community development and contain the following:
  - (1) A written petition bearing signatures of a minimum of 51 percent of the property owners fronting the street. The property owners signing shall also constitute a minimum of 51 percent of the linear street frontage. Linear street frontage shall include frontage of properties that abut both sides of the street right-of-way.
  - (2) Existing and proposed street names.
  - (3) Reason for requesting change.
  - (4) Map showing street or portion of street affected by change.
  - (5) A filing fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.
- (b) The application shall be processed and scheduled for public hearing as follows:
  - (1) The proposed name shall be checked by the city to ensure nonduplication.
  - (2) Public hearings before the planning commission and the city council may coincide with the schedule for rezoning cases.
  - (3) The city shall notify, by regular mail, all owners of record who have property fronting on the affected street, according to tax records available to the department, of the time and place of the public hearings. The postmaster shall also be notified of the hearings by regular mail.
  - (4) Legal notice of the application and the date, time and place of the public hearings shall be published in the official legal organ of the city at least ten days prior to the first public hearing.
  - (5) The application shall be forwarded with the community development department's recommendation to the planning commission for consideration at the scheduled public hearing and then forwarded to the city council with the recommendations of the department of community development and the planning commission.
  - (6) The final decision on the proposed change shall be made by the city council after having held the scheduled public hearing.
  - (7) Petitioners shall bear all costs necessary for street marker changes as determined by the city.
- (c) Applications affecting the same street or portion thereof shall not be submitted more than once every 24 months.
- (d) Requests initiated by any department or agency of the city shall be submitted to the department of community development. Review and processing procedures shall be the same as that of a property owner's application, except that the fee and a property owner's petition shall not be required in requests of this nature.

(Comp. Ords. 2008, ch. 23, art. I, § 1)

## Sec. 26-2. - Construction work on major streets, intersections; time restrictions.

No construction work or maintenance work shall be done within the traffic lanes of major through streets or intersections thereof from the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday. All underground construction work shall be paved or covered with steel plates during such rush hours or at other times when construction is not being accomplished. A list of the streets is on file with the department of public works. This section does not apply to emergency repairs.

(Comp. Ords. 2008, ch. 23, art. I, § 2)

Sec. 26-3. - Street lighting standards—Adoption.

- (a) To ensure adequate illumination of the public rights-of-way for the promotion of safety and security for the users of these rights-of-way and adjacent properties, the American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society, 1981 edition, as approved by the American National Standards Institute, is adopted as the standard (except as noted in subsection (b) of this section) for the installation and operation of public rights-of-way lighting in the city. Permanent copies of the standard are on file with the public works department.
- (b) Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with these standards. The minimum average horizontal footcandle illumination level by roadway classification shall be as follows:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Local or Residential	0.9	0.6	0.4

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of the average.

(Comp. Ords. 2008, ch. 23, art. I, § 3)

Sec. 26-4. - Same—Compliance.

- (a) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the public works department for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the department disapprove the request to install or operate lighting fixtures within any right-of-way, the same shall be communicated in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the department may be appealed to the city council. If any party desires to appeal an adverse decision by the department, a notice of appeal shall be filed with the department within 30 days from the date following the written notice of disapproval, and it shall be the responsibility of the department to transmit forthwith to the city council all papers and allied documents constituting the record upon which the action appealed from was taken and to ensure that the appeal is promptly placed upon the agenda of the council for its determination. The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from.
- (b) Roadway or street lighting luminaires or fixtures installed within the public rights-of-way as security lights, or for the purpose of lighting areas other than the public streets, shall be mounted on the side

of the pole opposite from the street and shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street and that the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the city shall be obtained before installation of these lights.

- (c) Other lighting fixtures to be installed within or outside of public rights-of-way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights-of-way.

(Comp. Ords. 2008, ch. 23, art. I, § 4)

Sec. 26-5. - Public transportation carrier transit bus stop shelters.

Bus stop shelters may be erected on private property, public streets, public property, or public rights-of-way by a public transportation carrier or as authorized by a public transportation carrier, subject to the following conditions:

- (1) Plans and specifications for the proposed installations shall be submitted and approved by the city in accordance with city requirements.
- (2) Bus stop shelters may be erected at any bus stop utilized by a public transportation carrier.
- (3) The owner or constructor of the bus stop shelter shall be responsible for the maintenance of the structure.
- (4) A bus stop shelter may be erected only at bus stops identified by a public transportation carrier providing service to that location. The public transportation carrier may contract with appropriate subcontractors to provide and maintain bus stop shelters at various locations.
- (5) Bus stop shelters may carry advertising placed upon them, subject to the following rules or regulations:
  - a. Such advertising matter must be attached to the shelter and not extend out beyond the parameters of the shelter;
  - b. Bus stop shelters carrying advertising matter must be constructed so as not to obstruct vision triangles at intersecting driveways and rights-of-way;
  - c. Advertising shall not violate ordinances or state law obscenity provisions;
  - d. Advertising shall not contain flashing lights or lights that would interfere with motorists on the roadway; and
  - e. Advertising shall comply with all applicable local, state and federal regulations.
- (6) A bus stop shelter must conform to the reasonable rules and regulations established under this section, including the following:
  - a. Bus stop shelters should be at least 48 inches from the curb; where no curb or gutter is present, the front of the bus shelter shall be at least ten feet from the edge of the main traveled roadway.
  - b. Bus stop shelters shall permit a clearance of at least 48 inches on pedestrian paths, driveways, sidewalks, drainage structures, etc.
  - c. Sides and/or internal dividers in shelters shall be constructed to provide visibility of waiting passengers to the oncoming traffic flow on the road, highway or street on which the shelter is located; provided, however, one double-faced panel containing advertising may be attached to the end of the shelter farthest from the traffic flow on the side of the street on which the shelter is located.
  - d. Each bus stop shelter shall be properly lighted to ensure public safety and provide complete visibility of the shelter from the abutting roadway.

- e. Bus stop shelters shall comply with all local, state and federal regulations.
- (7) On application by a public transportation carrier or a contractor authorized by a public transportation carrier to provide bus stop shelters to a public transportation carrier, a permit shall be issued to build a shelter and allow advertising thereon unless there is adequate reason for denying the permit.
- (8) Any public transportation carrier which provides more than one bus stop shelter shall make application for a permit to cover each of its various locations.
- (9) An application for a building permit for construction of a bus shelter shall be submitted and accompanied by the following:
  - a. Authorization and approval of the public transportation carrier and the state department of transportation;
  - b. Plans and specifications for the proposed installation;
  - c. If a bus shelter is to be erected or maintained on property other than the right-of-way of a public road or street, an authorization of the owner of the property.
- (10) The public transportation carrier shall remove the shelter upon the request of the city upon the city showing that such shelter poses a traffic hazard or an impediment to pedestrian traffic, or other reasonable cause.
- (11) Notwithstanding any other ordinance or part of ordinance prohibiting the construction of bus stop shelters or commercial advertising on public rights-of-way, a bus stop shelter complying with the provisions of this section may be constructed on public rights-of-way and have commercial advertising placed thereon, and the provisions of this section shall control such construction and advertisement.

(Comp. Ords. 2008, ch. 23, art. I, § 5)

Sec. 26-6. - Permit, franchise fee required prior to installation of poles, pipes, etc., on public roads or alleys.

- (a) No person shall install, construct, maintain or cause to be installed, constructed or maintained any pipe, main, conduit, cable, wire, pole, tower, traffic or other signal and other equipment, facilities, appliances, receptacles or signs, in, on, along, over or under the public roads or alleys of the city which are a part of the city street or county road system without first obtaining a permit therefor and paying franchise fees hereafter provided; provided, however, that such franchise fees shall not be in excess of those paid by such persons as may be authorized by any federal regulatory agency where applicable.
- (b) There is assessed a fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk, for the use of pipes, mains, conduits, cables, wires, poles, towers and public rights-of-way.
- (c) For each sign and each receptacle on the public right-of-way, excepting those used in connection with the collection and delivery of the United States mail, there is assessed a fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.

(Comp. Ords. 2008, ch. 23, art. I, § 6)

Sec. 26-7. - Defacing streets, sidewalks or curbs.

It shall be unlawful for any person to mark or otherwise deface any public sidewalk, street, or curb in the city by painting any numbers, symbols, or advertising thereon, regardless of the purpose. This section

does not apply to public utilities and their agents, Metropolitan Atlanta Rapid Transit Authority, and other governmental agencies.

(Comp. Ords. 2008, ch. 23, art. I, § 7)

Sec. 26-8. – Obstruction of the right-of-way.

- (a) No person shall place or cause to place in any street and/or sidewalk debris, rubbish, irrigation water, boxes, displays, signs, poles, goods, merchandise, plant materials, or any other object so as to impede and/or endanger traffic on streets and/or sidewalks.
  - (b) No person or company shall construct or maintain a drive, yard, or lot constructed of gravel, pebbles, or stone in such a manner that vehicles cause loose stones, pebbles or gravel to be thrown on to the adjacent street and/or sidewalk.
- Any personal property placed on the right-of-way following an eviction is removed within 24 hours of physical eviction unless an extension of time is requested on behalf of the evicted tenant. For purposes of this chapter, such property is deemed abandoned property 24 hours following eviction unless the landlord by contract specifies a shorter time. If the property is not removed within 24 hours, the city may commence removal and cite the property owner.

Secs. 26-~~98~~—26-32. - Reserved.