

CHAPTER I – IN GENERAL**Sec. 1.01 - TITLE**

- 1) This Ordinance shall be known and may be cited and referred to as the “Zoning Ordinance of the City of Villa Rica, Georgia,” and shall be referred to as “this Ordinance.”

Sec. 1.02 - PURPOSE

- 1) This Ordinance is hereby enacted by the City of Villa Rica, Georgia, for the purpose of:
 - a) Promoting the public health, safety, comfort, and general welfare;
 - b) To conserve and protect property and property values;
 - c) To secure the most adequate and economical provisions for public improvement, paying due regard to with the Comprehensive Plan and any changes made thereto as reflected in the Zoning Map and documents and records of The City of Villa Rica for the desirable future development of the City; and
 - d) To provide a method of administration and to prescribe penalties for the violations of the provisions hereafter described: all as authorized by the provisions of the Chapters and the Sections applicable under the Georgia Code.

Sec. 1.03 - TERRITORY UNDER THE ZONING ORDINANCE

- 1) This Ordinance shall be effective in the incorporated areas of the City of Villa Rica, Georgia. Upon annexation of territory into the City of Villa Rica, the County zoning regulations then in effect on that territory shall become null and void.

Sec. 1.04 - APPLICABILITY AND COMPLIANCE

- 1) All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations, changes in site or site flow, and relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing legally conforming uses exceeding thirty-five percent (35%) of the existing site or structure occurring hereafter as determined by the Community Development Director (“Director”) shall be subject to all the regulations of this Zoning Ordinance as they apply to the zoning districts in which such buildings or uses of land shall be located.
 - a) All changes of use proposed within existing structures on developed parcels shall be exempt from all supplementary regulations within this ordinance except parking requirements.
 - b) All changes of use proposed within new structures or structures expanded beyond 35% of the existing structure’s square footage on developed parcels shall be subject to all applicable regulations within this ordinance as set forth herein.
 - c) All changes of use proposed within existing buildings, new buildings, or buildings expanded beyond thirty-five percent (35%) of the existing structure’s square footage, and located on underdeveloped or undeveloped lots shall be subject to all applicable regulations within this ordinance as set forth herein.
- 2) This Ordinance shall not be construed as abating any action now pending under, or by virtue of, the prior existing zoning ordinance; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the City of Villa Rica under any section or provision existing at the time of the effective date of this

Ordinance; or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City, except as shall be expressly provided for in this Ordinance.

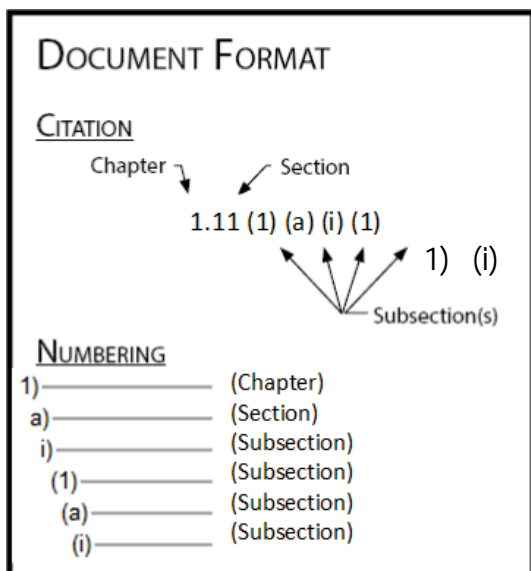
- 3) See also *Chapter III: Nonconformities*.
- 4) Municipal, county, and state owned properties shall be exempt from all use and use district regulations set forth within this ordinance. This section shall not be construed to exempt such uses and structures from following development or supplemental regulations found herein. Utility providers are subject to all regulations found within this ordinance unless otherwise indicated.

Sec. 1.05 - TRANSITION RULES

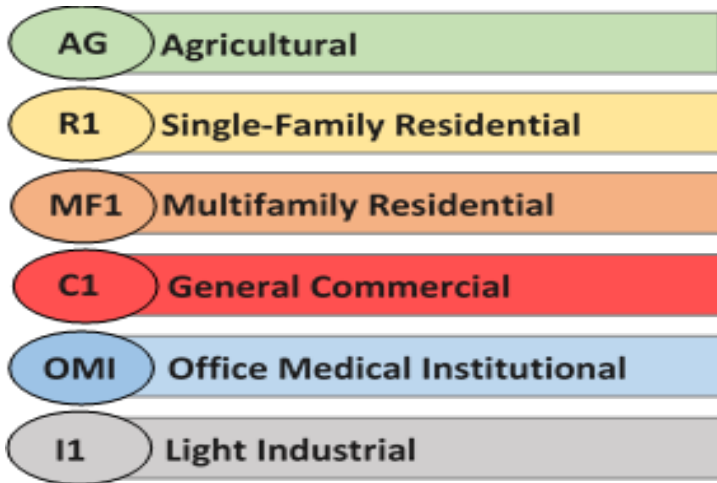
- 1) Any application that has been filed with the Planning & Zoning Commission or its designees and is full and complete, prior to the effective date of this Zoning Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, all administrative procedures shall follow those set forth by this Zoning Ordinance.

Sec. 1.06 - HOW TO USE THIS DOCUMENT

- 1) STRUCTURE. The structure of the text of this Ordinance is as follows: Chapter (indicated by 1, etc.), Section (indicated by 1.1, etc.), and subsequent Subsections (indicated by a, i, etc.). Below is an example of this format:



- 2) **APPLICABLE DISTRICTS.** Zoning district designation identifiers are located in various places throughout the document. If one of these identifiers appears within a section, then that section will apply to the corresponding zoning district. Samples of district identifiers follow:



Sec. 1.07 – INTERPRETATIONS

- 1) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum or maximum requirements, adopted for the promotion of the public health, safety, and the general welfare.

Sec. 1.08 - INTERPRETATION OF TERMS OR WORDS

- 1) For the purpose of this Ordinance, certain terms or words are defined, and the words or terms used shall be interpreted as follows:
- The word “person” includes a firm, association, organization, partnership, trust, company, corporation or other legal entity, as well as an individual;
 - The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;
 - The word “shall” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
 - The words “used” or “occupied” include the words “intended, designed, constructed, converted, altered or arranged to be used or occupied”; and
 - The word “lot” includes the words “plot, tract, or parcel.”

Sec. 1.09 - ZONING MAP

- 1) **OFFICIAL ZONING MAP.** The city is divided into zones or districts as shown on the Official Zoning Map as amended, which, together with all explanatory matter, is adopted by reference and declared to be a part of this Ordinance. See also *Section 11.05 – Zoning Map and Text Amendments*.
- 2) **LOCATION AND MAINTENANCE OF THE OFFICIAL ZONING MAP.**
- Regardless of the existence of copies of the official Zoning Map which, from time to time may be published, the Official Zoning Map shall be located in the office of the Community Development

- department. It shall be the final authority as to the current zoning status of land and water areas in the city. Current copies may be obtained from the Community Development department.
- b) The official Zoning Map may be maintained in electronic form, and depicted in various formats and scales as appropriate to the need, under the direction of the Community Development Director.
 - c) No changes of any nature shall be made on the Official Zoning Map or shown except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of any kind by a person or persons shall be considered a violation of this Ordinance and punishable as provided under *Chapter XII – Violations and Enforcement*.
- 3) REPLACEMENT OF THE OFFICIAL ZONING MAP. In the event that the official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions or loss of electronic information, the Villa Rica City Council may, by Resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment.
- 4) RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
- a) Boundaries indicated as approximately following the center lines of thoroughfares or highways, street lines or highway right-of-way lines, or alleys shall be construed to follow the centerlines;
 - b) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot line;
 - c) Boundaries indicated as approximately following city limits shall be construed as following the City Limits;
 - d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
 - e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerlines;
 - f) Boundaries indicated as approximately following floodplain lines shall be construed to follow the floodplain lines;
 - g) Boundaries indicated as parallel to or extensions of features indicated in the subsections above shall be so controlled. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map by the Community Development Director;
 - h) Where physical features existing on the ground are at variance with those shown as the Official Zoning Map, or in other circumstances not covered by the subsections above, the Community Development Director shall interpret the boundaries. The Villa Rica City Council shall hear appeals to the decision of the Community Development Director; and
 - i) When a zoning district boundary line divides a lot or parcel, the Director shall determine the applicable zoning district. The Director may require a rezone or replat of the site if any portion of a construction or development proposal overlaps two (2) or more zoning districts. The petitioner shall be responsible for filing the appropriate forms and for paying the appropriate filing fees to rezone or replat the lot or parcel. If a portion of a lot or parcel is in an overlay district, the entire lot or parcel shall be deemed as being within the overlay district.

Sec. 1.10 - CONFLICT OF LAW

- 1) Whenever the regulations of this Ordinance require a greater width or size of setbacks or other open space, a lower height limit, greater percentage of lot to be left unoccupied, a lower density of development, a more restrictive use of land, or impose other higher standards than are required in any other lawfully adopted rules, regulations, ordinances, private deed restrictions or private covenants, these regulations shall govern.

Sec. 1.11 - SEVERABILITY CLAUSE

- 1) Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the Zoning Ordinance as a whole, or any part other than the part declared to be unconstitutional or invalid.

Sec. 1.12 - REPEAL OF CONFLICTING ORDINANCE

- 1) All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

Sec. 1.13 - EFFECTIVE DATE

- 1) This Ordinance shall become effective from and after the date of its approval and adoption.

CHAPTER II - ADMINISTRATION**Sec. 2.01 – ENFORCEMENT**

- 1) The Director of the Community Development department, or his/her designee, shall effect proper administration and enforcement of this Zoning Ordinance. *See also Chapter XII: Violations and Enforcement.*

Sec. 2.02 – JOINT CITY/SCHOOL BOARD COMMITTEE

- 1) ESTABLISHMENT OF THE JOINT CITY/SCHOOL BOARD COMMITTEE OF THE CITY OF VILLA RICA AND THE CARROLL COUNTY SCHOOL DISTRICT (THE “JOINT COMMITTEE”).
 - a) The Joint Committee of Villa Rica shall be established in conformance with the Intergovernmental Agreements relating to Eastside Tax Allocation District TAD Agreement. The Community Development Director, or his/her designee, shall serve as staff to the Joint Committee.
 - i) Responsibilities. The Joint Committee shall act in an advisory capacity to the City Council in zoning and annexation questions. In addition to any duties, responsibilities, or powers enumerated by the Council by resolution, ordinance, or the Municipal Code, the responsibilities of the Joint Committee shall include:
 - (1) Conduct public hearings and makes recommendations on annexation requests, plan amendments, planned unit development, subdivisions, and zoning amendments;
 - (2) Recommend changes and amendments to the Zoning Map and the Code text;
 - (3) Make recommendations upon all other items referred to it by the City Council and the School District.
 - ii) Public Hearing Procedures.
 - (1) Rules of Procedure. The Joint Committee may adopt rules of procedure consistent with the provisions of this Code.
- 2) NOTICE OF MEETINGS.
 - a) Publication of the notice of any public hearing shall be done in conformance with Article 2 of this Code. The meeting agenda shall be posted in the City Clerk’s Office prior to the scheduled meeting.
 - b) The posting of a written notice for at least 24 hours at the place of regular meetings and giving of written or oral notice at least 24 hours in advance of the meeting to the legal organ in which notices of sheriff’s sales are published in the county where regular meetings are held. Alternative notice may be provided to a newspaper having a general circulation. O.C.G.A. § 50-14-1(d).
 - c) The Agenda must provide for all matters expected to be considered O.C.G.A. § 50-14-1(e)(1).

- d) Agenda shall be available upon request and posted at the meeting site, as far in advance of the meeting as reasonably possible, but not more than two weeks (14 days) prior. O.C.G.A. § 50-14-1(e)(1).
- 3) CONDUCT OF MEETINGS.
- a) All meetings of the Joint Committee shall be open to the public.
- b) The Joint Committee shall have meetings as needed for the transaction of business.
- 4) MINUTES.
- a) The Joint Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its deliberations and other official actions.
- b) The minutes shall be filed in the office of the Community Development Director.
- 5) CONFLICT OF INTEREST.
- a) A member of the Joint Committee shall inform the Joint Committee before the commencement of the public hearing, of any interest in the proposed action being reviewed by the Joint Committee. The Joint Committee Member shall not participate in any discussion or voting on any item for which the Joint Committee Member or Joint Committee Member's spouse, mother, father, children, siblings or in-laws has an interest.
- 6) QUORUM.
- a) The Joint Committee shall have a quorum present before considering any business. A quorum shall constitute a majority of the qualified members of the Joint Committee. The affirmative vote of the majority of the members present shall be required before the Joint Committee shall approve a recommendation or advisory opinion.
- 7) INVALIDITY OF A VOTE.
- a) If a Joint Committee member votes on a recommendation in which the Joint Committee member has a conflict of interest, the member's vote shall be voided.
- 8) MEMBERSHIP.
- a) The Joint Committee of the City of Villa Rica shall be comprised of five (5) members. The members shall be appointed for two (2) year terms, as shown below and every two (2) years thereafter. If a member is appointed to fill a vacancy during a term, the replacement member shall serve the remaining balance of that term.
- Position 1 – Appointed by Carroll County School Board for term beginning on the date of appointment and continuing until December 31, 2024, then every two years thereafter.

- Position 2 – Appointed by Carroll County School Board for term beginning on the date of appointment and continuing until December 31, 2023, then every two years thereafter.
- Position 3 – Appointed by City Council of Villa Rica beginning on the date of appointment and continuing until December 31, 2024 and then every two years thereafter.
- Position 4 – Appointed by City Council of Villa Rica beginning on the date of appointment and continuing until December 31, 2023 and then every two years thereafter.
- Position 5 - Appointed by Chair of Board of Commissioners of Carroll County beginning on the date of appointment and continuing until December 31, 2024 and then every two years thereafter.
- If the Joint Review Committee is expanded, then the County shall have one representative for every two added for the City and School District.

Any and all other provisions of the City of Villa Rica Zoning Ordinance shall remain unchanged.

b) Failure to attend three (3) out of four consecutive meetings or more shall be considered automatic resignation from the Joint Committee. Upon resignation by other means, or other vacancies occurring in office, the Chairman or Secretary (Zoning Administrator) shall inform the City Council, County School Board or County of such occurrence as promptly as possible, so that the appointing authority may appoint a replacement to fill the unexpired term.

c) Each year the Joint Committee shall select a member to serve as Chair and Co-Chair to preside over meetings of the Joint Committee.

9) AUTHORITY.

a) The Joint Committee is hereby authorized to perform those duties and functions specified in the Intergovernmental Agreement related to the Eastside Tax Allocation District. For the purposes of this Zoning Ordinance, the duties of the Joint Committee include:

i) Rules of Procedure . The Joint Committee may adopt written rules of procedure for the administration of the affairs of the Joint Committee and its staff for filing, noticing and hearings.

ii) Record Keeping . Maintain a complete record of all proceedings;

iii) Meeting Time and Records . Fix the time for holding regular meetings each month, or as necessary, keep minutes of all meetings, and maintain all minutes and records in the office of the Joint Committee;

iv) Whenever possible, the Joint Review Committee shall conduct its review of applicants no earlier than five (5) days after the public hearings conducted or the application by the Villa Rica Planning and Zoning Commission.

v) Recommendations . Make recommendations to the City Council of Villa Rica concerning the following:

- a) The Joint Committee shall review and make recommendations for all annexation requests into the City that involve land south of I-20 in the City.
- b) The Joint Committee shall review and make recommendations for any zoning requests for residential development that involve land south of I-20 in the City.
- c) The Joint Committee shall review and make recommendations for any zoning requests to rezone land for multi-family residential use or high-density residential use anywhere in the Carroll County portion of the City.
- vi) Surety. Assume responsibility for the custody and preservation of all Joint Committee documents and papers.

(Ord. of 3-8-2023)

Sec. 2.03 – PLANNING & ZONING COMMISSION

- 1) ESTABLISHMENT OF THE PLANNING & ZONING COMMISSION.
 - a) The Planning & Zoning Commission of Villa Rica shall be reconstituted and re-established in conformance with the Municipal Code. The Community Development Director, or his/her designee, shall serve as staff to the Commission.
 - i) Responsibilities. The Planning & Zoning Commission shall act in an advisory capacity to the City Council. In addition to any duties, responsibilities, or powers enumerated by the Council by resolution, ordinance, or the Municipal Code, the responsibilities of the Planning & Zoning Commission shall include:
 - (1) Conduct public hearings and makes recommendations on plan amendments, planned unit development, subdivisions, site plans as applicable, and zoning amendments;
 - (2) Recommend changes and amendments to the Zoning Map and the Code text;
 - (3) Conduct hearings and make recommendations on comprehensive plan amendments; and
 - (4) Make recommendations upon all other items referred to it by the City Council.
 - ii) Public Hearing Procedures
 - (1) Rules of Procedure. The Planning & Zoning Commission may adopt rules of procedure consistent with the provisions of this Code.
- 2) NOTICE OF MEETINGS.
 - a) Publication of the notice of public hearing and notification of affected property owners shall be done in conformance with Article 2 of this Code. The meeting agenda shall be posted in the City Clerk's Office prior to the scheduled meeting.
 - b) The posting of a written notice for at least 24 hours at the place of regular meetings and giving of written or oral notice at least 24 hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held. Alternative notice may be provided to a newspaper having a general circulation. O.C.G.A. § 50-14-1(d).
 - c) The Agenda must provide for all matters expected to be considered O.C.G.A. § 50-14-1(e)(1).
 - d) Agenda shall be available upon request and posted at the meeting site, as far in advance of the meeting as reasonably possible, but not more than two weeks (14 days) prior. O.C.G.A. § 50-14-1(e)(1).
- 3) CONDUCT OF MEETINGS.
 - a) All meetings of the Planning & Zoning Commission shall be open to the public.

- b) The Planning & Zoning Commission shall have a regularly scheduled meeting at least once a month, and more often if necessary, for the transaction of business.
- 4) MINUTES.
 - a) The Planning & Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its deliberations and other official actions.
 - b) The minutes shall be filed in the office of the Community Development Director.
- 5) CONFLICT OF INTEREST.
 - a) A member of the Commission shall inform the Commission before the commencement of the public hearing, of any interest in the proposed action being reviewed by the Commission. The Commission Member shall not participate in any discussion or voting on any item for which the Commission Member or Commission Member's spouse, mother, father, children, siblings or in-laws has an interest.
- 6) QUORUM.
 - a) The Planning & Zoning Commission shall have a quorum present before considering any business. A quorum shall constitute a majority of the qualified members of the Commission. The affirmative vote of the majority of the members present shall be required before the Commission shall approve a recommendation, action or development request.
- 7) INVALIDITY OF A VOTE.
 - a) If a Commission member votes on a recommendation in which the Commission member has a conflict of interest, the member's vote shall be voided.
- 8) MEMBERSHIP.
 - a) The Planning & Zoning Commission of the City of Villa Rica shall be comprised of five (5) members who reside in the city limits of Villa Rica, Georgia. The members shall be appointed as shown below and every two (2) years thereafter. If a member is appointed to fill a vacancy during a term, the replacement member shall serve the remaining balance of that term. Each member of the Planning & Zoning Commission shall be nominated as a member for one of the five voting wards within the City. The City Council member representing that particular ward shall nominate candidates to fill the vacancy for that ward when they become available. Once nominated, the full Mayor and Council may approve that nomination or select an alternate candidate to fill the Planning & Zoning Commission position. All members shall continue to serve until their successor has been sworn in.
 - i) The current terms for the wards within the City are as follows:
 - (1) Ward 1 – 01/01/2020-12/31/2022
 - (2) Ward 2 – 01/01/2022-12/31/2022
 - (3) Ward 3 – 01/01/2021-12/31/2023
 - (4) Ward 4 – 01/01/2021-12/31/2023
 - (5) Ward 5 – 01/01/2023-12/31/2023
 - b) No member shall hold any elective public office within the City of Villa Rica. Unexpired terms shall be filled by the City Council. Members are removable for cause by the City Council upon written notice and after a public hearing.
 - c) Failure to attend three (3) out of four consecutive meetings or more shall be considered automatic resignation from the Planning & Zoning Commission. Upon resignation by other means, or other vacancies occurring in office, the Chairman or Secretary (Zoning Administrator) shall inform the City Council of such occurrence as promptly as possible, so that the Council may appoint a replacement to fill the unexpired term.

9) AUTHORITY.

- a) The Planning & Zoning Commission (“Commission”) is hereby authorized to perform those duties and functions specified in Georgia Planning Act (O.C.G.A. 45-12-200, et seq., and 50-8-1, et seq.) and other applicable sections of Georgia law and such other responsibilities as may be assigned to it from time to time by the Villa Rica City Council. For the purposes of this Zoning Ordinance, the duties of the Planning & Zoning Commission include:
- i) Rules of Procedure. The Commission shall adopt written rules of procedure for the administration of the affairs of the Commission and its staff for filing, noticing and hearings. Refer to the Villa Rica Planning & Zoning Commission Rules of Procedures, as amended;
 - ii) Record Keeping. Maintain a complete record of all proceedings;
 - iii) Meeting Time and Records. Fix the time for holding regular meetings each month, or as necessary, keep minutes of all meetings, and maintain all minutes and records in the office of the Commission;
 - iv) Certification. Adopt a seal and certify all official acts;
 - v) Recommendations. Make recommendations to the participating legislative bodies concerning the adoption and amendment of the Comprehensive Plan, the Zoning Ordinance (including the Zoning Map), the Villa Rica Development Regulations, and Planned Unit Development district ordinances;
 - vi) Surety. Assume responsibility for the custody and preservation of all Commission documents and papers;
 - vii) Publications. Prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized by the Georgia Code;
 - viii) Modification. The Planning & Zoning Commission may initiate modifications to the standards of this Zoning Ordinance.
 - (1) Modifications recommended by the Planning & Zoning Commission shall be subject to the approval of the City Council as a text amendment to the Zoning Ordinance.
 - ix) Other Duties. All additional duties as established by Georgia Code.

Sec. 2.04 - COMMUNITY DEVELOPMENT DIRECTOR

- 1) ENFORCEMENT. The Director of the Community Development department (referred to as the “Director” for the purposes of this Ordinance), including his/her designee(s), will have the principal responsibility for the administration and enforcement of this Ordinance within the Planning & Zoning Commission’s planning jurisdiction. The authority to perform inspections, review applications, and issue permits may be delegated to other officials by the Director. In the performance of these functions, the Director and his/her appointed officials shall be responsible to the Planning & Zoning Commission and the Villa Rica City Council. The duties delegated by the Planning & Zoning Commission to the Director, or his/her designee shall include, but not be limited to the following.
- 2) BASIC DUTIES
- a) Interpretation. Provide interpretation of the “City of Villa Rica Zoning Ordinance” when necessary and provide such technical and clerical assistance as the Planning & Zoning Commission and Villa Rica City Council may require.
 - b) Maintenance. Provide and maintain a public information service relative to all matters of the Planning & Zoning Commission and arising out of the “City of Villa Rica Zoning Ordinance.”

- c) Land Disturbance Permits. Reviewing, approving, or disapproving all Land Disturbance Permits and keeping permanent records of applications made and actions taken;
- d) Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Planning & Zoning Commission, Villa Rica City Council, or other body (i.e. HPC) in the execution of its duties as established by this Ordinance and the Georgia Code;
- e) Record Keeping. Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, Special Exceptions, variances, and appeals;
- f) Planning & Zoning Commission Applications. Receiving, processing, docketing, and referring to the Planning & Zoning Commission all appropriate applications and other matters upon which it is authorized to act under this Ordinance and Georgia Code;
- g) Villa Rica City Council Applications. Receiving, processing, docketing, and referring to the Villa Rica City Council all appeals, variances, and Special Exceptions;
- h) Technical Advisory Committee (TAC). Receiving, processing, docketing, and referring all appropriate applications;
- i) Clerical & Technical Assistance. Providing all such clerical and technical assistance as may be required by the Villa Rica City Council, Planning & Zoning Commission, Legislative Bodies, or other body in the execution of its duties as established by this Ordinance and Georgia Code.
- j) Provide Information. Provide information to the Planning & Zoning Commission and the Villa Rica City Council and maintain permanent and current records arising from the administration of the “City of Villa Rica Zoning Ordinance,” including but not limited to, all maps, amendments, Improvement Land Disturbance Permits, Certificates of Occupancy, Certificates of Completion, Variances, Special Exceptions and appeals, and applications thereof, and records of hearings thereon.
- k) Planning and Zoning Commission Recommendations. The Director, or his designee, shall report the actions and recommendations of the Planning and Zoning Commission to the City Council at the time those recommendations are made to the council.
- l) Research and Analysis. Conduct research and collect and analyze, on a continuing basis, all pertinent data on the growth and development of the city in order to provide a foundation for a planning program.
- m) Fee Schedule. The Director shall maintain a schedule of fees for all applications, permits, and other processes outlined in this Ordinance.
 - i) Fee Basis. All fees shall be intended to reimburse the City for the time and cost of processing the required materials. In no instance shall a fee be used as a means of discouraging or encouraging any particular types of applications.
 - ii) Public Access. The fee schedule shall be made available to the public by the Director.
 - iii) Establishment and Revisions. The fee schedule shall be prepared by the Director and adopted by the Villa Rica City Council as applicable.
 - iv) Payment Required. Until all applicable fees have been paid in full, no action shall be taken on any application or petition.
 - v) Fines for Failing to Obtain a Permit. The Director may require any person who initiates construction of a structure or the alteration of land prior to obtaining any required permit to pay

up to three (3) times the amount of the normal permit fee listed on the fee schedule as a penalty.

In addition to any other enforcement action, the Director may recover a reasonable attorney fee incurred in the enforcement of any provision of this Ordinance.

- n) **Schedule of Meeting and Filing Dates.** The Director shall maintain an annual Calendar of Meeting and Filing Dates for the Planning & Zoning Commission, Villa Rica City Council, and other established advisory/review committees. The existence of this calendar shall not be interpreted as prohibiting special meetings of the Committees, Commission, or Council.
 - i) **Coordination of Calendars.** The calendars of the Technical Review Committee, other established advisory/review committees, and Planning & Zoning Commission shall be coordinated to ensure the efficient processing of applications.
 - ii) **Conformance with Georgia Code.** All meeting and filing dates shall be based on the requirements of this Ordinance and the laws of the State of Georgia.
 - iii) **Approval of Dates.** The Calendar of Meeting and Filing Dates shall be prepared by the Director and approved by the Planning & Zoning Commission and Villa Rica City Council. The calendar of meeting and filing dates shall be reviewed and updated annually by the Director.
- 3) **APPEALING A DECISION OF THE DIRECTOR.** Recourse from the decision of the Director shall be to the Villa Rica City Council on matters pertaining to zoning and shall be made in accordance with *Section 11.11 – Administrative Appeals Procedure* and the Villa Rica City Council Rules of Procedure. Recourse from the decision of the Villa Rica City Council shall be to the courts as provided by law.

Sec. 2.05 - VILLA RICA CITY COUNCIL

- 1) **VILLA RICA CITY COUNCIL ESTABLISHMENT AND PROCEDURES**
 - a) Refer to O.C.G.A. 45-12-200, et seq. and the City of Villa Rica City Council Rules of Procedure, as amended, for regulations and rules. The intent of this Section is not to establish the validity of the City Council, but to empower the City Council as the body of adjudication on appeals of the Zoning Ordinance, zoning processes, and/or decisions of the Community Development Director on matters of zoning appeal.
- 2) **DUTIES OF THE VILLA RICA CITY COUNCIL**
 - a) For the purpose of this Ordinance the Council has the following specific responsibilities:
 - i) Development Standards Variances.
 - (1) The Villa Rica City Council shall approve or deny variances from all individual standards found within the Zoning Ordinance in accordance with the Georgia Planning Act (O.C.G.A. 36-66-1, et seq.; 36-67-1, et seq.; and, 36-67A-1, et seq.). Variances shall not be granted from standardized procedural or administrative policies found within the Zoning Ordinance. A variance may be approved only upon a determination in writing that:
 - (a) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (b) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (c) the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
 - (2) Variance procedures can be found in *Chapter XI: Petitions, Permits, and Procedures* and the Villa Rica City Council Rules of Procedure.

- ii) Appeals. The Villa Rica City Council shall hear and determine all appeals from any decision or action in the administration or enforcement of the Zoning Ordinance. The Villa Rica City Council shall hear and determine all appeals from the refusal to issue permits. The Council may decide appeals by reversing or affirming, wholly or in part, or by modifying such decision, action or refusal.
 - iii) Special Exceptions. To grant, approve or deny all Special Exception permits as specified in each zoning district and under the procedures per *Section 11.09 – Special Exception Procedure* and the Villa Rica City Council Rules of Procedure.
 - iv) Rezoning. To grant, approve or deny all petitions for rezoning as specified in each zoning district and under the procedures per Chapter XI: Petitions, Permits, and Procedures and the Villa Rica City Council Rules of Procedure.
 - v) Annexation. Georgia's Zoning Procedures Act (ZPA), O.C.G.A. 36-66, defines a "zoning decision" as, among other things, "The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality." Thus, adopting any zoning on an annexed property is subject to the ZPA.
 - vi) Comprehensive Plan Amendments. Amendments to the Comprehensive Plan can be initiated by the City Council as an annual update or for specific purposes, including the annexation of property into the city and modifications to the Future Development Map, under the procedures per Chapter XI: Petitions, Permits, and Procedures.
 - vii) Zoning Text Amendments. City staff, the Planning Commission, and the City Council can initiate a text amendment in whole or in part of the Villa Rica Zoning Ordinance. Procedures are subject to the requirements outlined in Chapter XI: Petitions, Permits, and subject the requirements of Georgia's Zoning Procedures Act. O.C.G.A. 36-66, and are subject to the final approval of the City Council.
 - viii) Final Plat. The City Council shall have the authority approve, approve with conditions, or deny a Final Plat that includes the dedication of public streets and infrastructure, and on matters associated with Written Commitments or the satisfaction of Conditions of Zoning adopted by the City Council.
- 3) **SUPPLEMENTARY CONDITIONS OF APPROVAL**
- a) In granting any appeal or variance, the Villa Rica City Council may prescribe appropriate conditions of approval in conformity with this Ordinance. Violation of the conditions, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under *Chapter XII: Violations and Enforcement*.

Sec. 2.06 – PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS

- 1) Applicability. Public hearings held by the City Council as required by this ordinance with regard to rezoning requests (amendments to the official zoning map), applications for conditional uses, applications for variances, and appeals of any administrative decision shall be called and conducted in accordance with the procedures of this section. The City Clerk shall print and make available for distribution to the general public the procedures for the conduct of public hearings as well as the standards to be applied by the Council in making zoning decisions.

- 2) *Presiding officer.* The presiding officer shall preside over the public hearing. In the case of the City Council, the Mayor shall preside, or in the absence of the Mayor the Mayor Pro Tempore shall preside, or in the absence of both the Mayor and Mayor Pro Tempore another member of the City Council shall be designated to preside, over the public hearing.
- 3) *Opening of public hearing.* The presiding officer shall indicate that a public hearing has been called on one or more applications made pursuant to this ordinance shall summarize the processes required by this article (or call on the Zoning Administrator to summarize), and shall open the public hearing. Thereupon, the presiding officer shall call the first case and the City Council shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the City Council; provided, however, that the presiding officer may at his discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and/or when proceedings would be efficiently completed by combining separately required public hearings and discussing more than one scheduled matter as a single group of applications.
- 4) *Report of Zoning Administrator.* Upon opening the public hearing, the presiding officer may recognize the Zoning Administrator, who may provide a summary of the application and present any recommendations or results of investigations. Any member of the City Council upon recognition by the presiding officer may ask questions of the Zoning Administrator or designee or other city or planning commission representative providing a report or recommendations. The Zoning Administrator may be represented at the public hearing by written report in lieu of oral testimony.
- 5) *Identification of speakers.* Prior to speaking, each speaker (including applicant, agent of applicant, and all others) must identify himself and state his current address for the record. The presiding officer may require a speaker to complete an information card supplying such information, prior to testifying.
- 6) *Applicant and those in favor of the application.* When an individual application comes up for hearing, the presiding officer may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of those who may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations. Following the report of the Zoning Administrator or designee, or planning commission spokesperson, if any, the presiding officer shall recognize the applicant or his agent, spokesperson, or each of them, who shall present and explain the application, followed by any other persons wishing to speak in favor of the application. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, or general welfare. There shall be a minimum time period of ten minutes per application at the public hearing for the applicant and/or agent and anyone in favor of the application to present data, evidence, and opinions. The City Council shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time, nor shall there be an obligation to provide a minimum of ten minutes per application in the event that more than one application involving the same property is heard simultaneously. An applicant or agent may reserve any remaining unused time from the allotted time period for rebuttal. Upon the completion of testimony or remarks by the

applicant and/or applicant's agent and those speaking in favor of the application, any member of the City Council upon recognition by the presiding officer may ask questions of the applicant or agent of the applicant, or both, or any person speaking in favor of the application.

- 7) *Questions and opposing public comments on the application.* At the conclusion of the applicant's presentation and any testimony by others in favor of the application, the presiding officer shall call for public comments from those who wish to ask questions, make comments or oppose the application. The presiding officer may ask for a show of hands of those persons who wish to ask questions, make comments, and/or speak in opposition to the application. If it appears that the number of persons wishing to ask questions, make comments, and/or speak in opposition to the application is in excess of those who may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations, ask questions, or speak in opposition. There shall be a minimum time period of ten minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions. The City Council shall not be obligated to provide the full ten minutes per application to the opponents if they elect not to use that much time, nor shall there be an obligation to provide a minimum of ten minutes per application in the event that more than one application involving the same property is heard simultaneously. Upon the completion of testimony or remarks by those asking questions and/or speaking in opposition to the application, any member of the City Council upon recognition by the presiding officer may ask questions of those speakers.
- 8) *Response to questions.* Upon the completion of testimony or remarks by those asking questions and/or speaking in opposition to the application, the presiding officer may ask the Zoning Administrator, if present, to answer questions posed by speakers; answer such questions himself; recognize a member of the City Council to make remarks or answer questions in response to such questions; or defer questions to the applicant to be answered during rebuttal.
- 9) *Content of remarks.* Each speaker shall speak only to the merits of the proposed application under consideration and shall address his remarks only to the City Council and not directly to the audience. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.
- 10) *Applicant's rebuttal.* Upon the conclusion of public testimony, if the ten minutes allotted to the applicant and those speaking in favor of the application has not been exhausted, the applicant or his agent, or both, shall be allowed the remaining time from the total ten minutes allotted to answer questions, rebut the testimony of speakers, and/or provide final comments and remarks. The time devoted to any such rebuttal shall be counted toward the total ten minutes allotted to the applicant if such a time limit is set by the presiding officer. Any member of the City Council upon recognition by the presiding officer may then ask questions of the applicant, his agent, or both.

- 11) *Equal time.* In no event shall this section be interpreted to, and in no case shall the presiding officer allow or permit, an unequal amount of time to proponents and opponents with respect to testimony regarding an individual application.
- 12) *Close of hearing.* After the foregoing procedures have been completed, the presiding officer will close the public hearing and indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer be permitted to address the City Council in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding officer may reopen the public hearing for a limited time and purpose.
- 13) *Decision.* After the public hearing is closed, the City Council may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this article, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held. After hearing evidence, in making a decision, the City Council will apply the evidence to the criteria specified in this article for the application in question and other considerations and recommendations as may be considered appropriate. If the City Council determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the City Council on its own initiative or as recommended by the Zoning Administrator. Otherwise, such application shall be denied.
- 14) *Judicial review.* Decisions by the City Council with regard to variances are final; provided, however, any person or persons, jointly or severally, aggrieved by any decision of the City Council with regard to a decision on a variance application under the terms of this section may take an appeal to or seek judicial review by the County Superior Court. Any person, persons or entities jointly or severally may appeal in accord with O.C.G.A. § 36-66-5.1(1). The City Clerk, on behalf of the Mayor and Council, shall have the authority to approve or issue any form or certificate necessary to perfect the petition for review of any lower judicatory bodies and shall have the authority to accept service of such petition on behalf of the lower judicatory board or agency. Any such certificate, form or service shall be delivered to Villa Rica City Hall during normal business hours.

CHAPTER III - NONCONFORMITIES

Sec. 3.01- INTENT

- 1) This Ordinance allows legally established nonconforming uses based on the fact that within the districts established by this Ordinance or amendments that may later be adopted there exist lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Ordinance was passed and amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments; and
- 2) It is the intent of this Ordinance to permit legally established nonconforming uses, buildings, sites, and structures to continue until they are removed, abandoned, or fully conform with this Ordinance, but not to encourage their survival in nonconforming status. It is further the intent of this Ordinance that legal nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district without approval from the Villa Rica City Council in accordance with *Section 2.04 – Villa Rica City Council*, in this Article.

Sec. 3.02 - NONCONFORMING STATUS

- 1) The determination of status of Illegal Nonconforming and Legal Nonconforming (“Grandfathered”) uses, buildings, structures, or lots shall be based on the definition for each type of nonconforming use as they appear in *Chapter XIII: Definitions*.
 - a) Illegal Nonconforming. An illegal nonconforming use, structure, or lot shall be subject to actions and penalties allowed by this Ordinance and shall be altered to conform with all applicable standards and regulations of this Ordinance and all other applicable City ordinances.
 - b) Legal Nonconforming (“Grandfathered”). Legal nonconforming differs from illegal nonconforming in that the reason for the nonconformance is caused by the enactment of a Zoning Ordinance or a change to a Zoning Ordinance (including the official Zoning Map). Legally established nonconforming use of structures and/or land may continue operation or use in conformance with this Chapter.

Sec. 3.03 - INCOMPATIBILITY OF A NONCONFORMING USE

- 1) Legally established nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which the use is located. A legally established nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended, expanded or enlarged after passage of this Ordinance.

Sec. 3.04 AVOIDANCE OF UNDUE HARDSHIP

- 1) Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently.

Sec. 3.05 - NONCONFORMING LOT OF RECORD

- 1) Any legally established lot, as defined by this Ordinance, having less than the required minimum lot area or minimum lot width and frontage required by the applicable zoning district regulations of this Ordinance, may be deemed to be an exception to such minimum lot area or minimum lot width and frontage. This provision may apply even though such lots fail to meet the requirements for area, width, frontage, or any combination required by the applicable zoning district regulations of this Ordinance.
- 2) All other development standards for the applicable zoning district must be met unless property is determined to be an infill development.

Sec. 3.06 - NONCONFORMING USE OF LAND

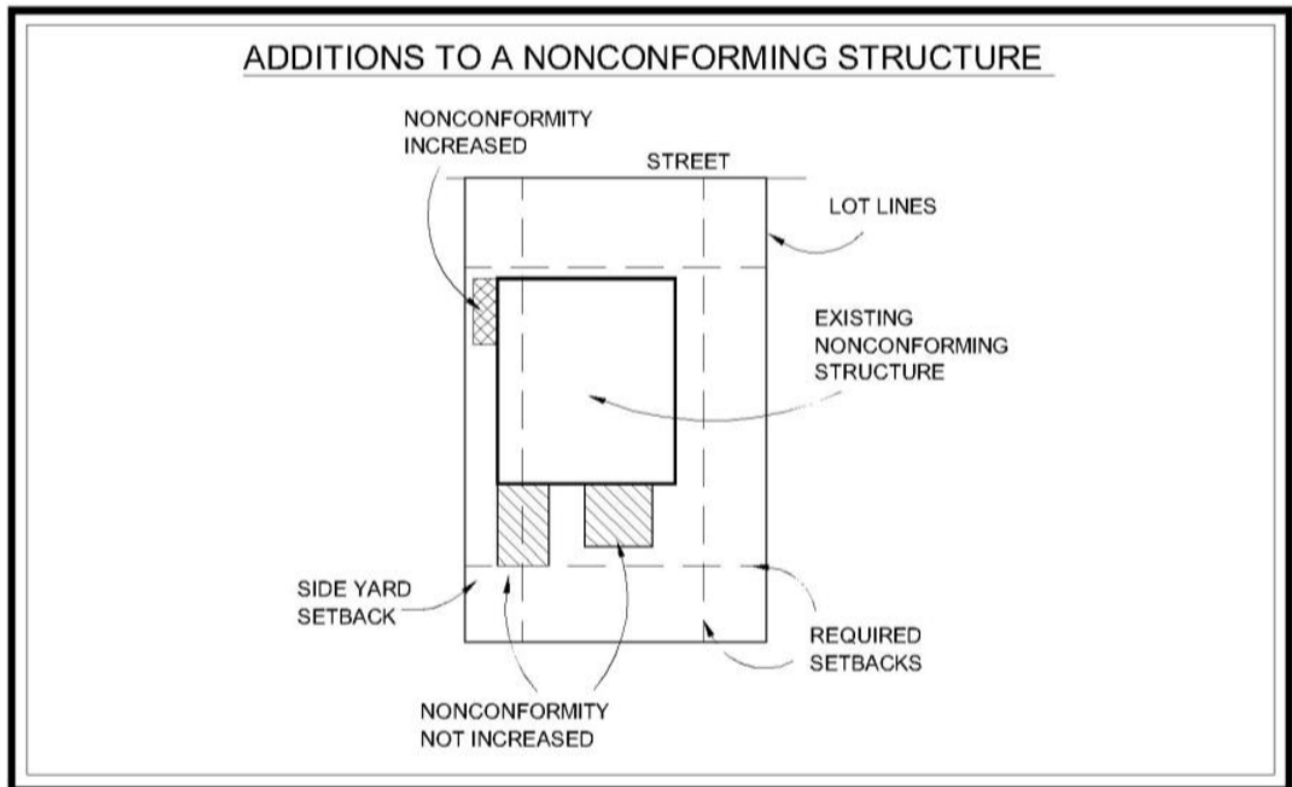
- 1) Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:
 - a) a nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
 - b) a nonconforming use shall not be moved in whole or in part to any portion of the lot other than that occupied by the uses at the effective date of adoption or amendment of this Ordinance;
 - c) a nonconforming use may be extended throughout any parts of an existing structure which was plainly arranged or designed for such use at the effective date of this Ordinance or its subsequent amendments, but no such use shall be extended to occupy land outside of the structure;
 - d) if a nonconforming use of land is discontinued or abandoned for more than one (1) year, the subsequent use of the land shall conform to the regulations specified by this Ordinance for the zoning district in which the land is located; and
 - e) no additional building or structure not conforming to the requirements of this Ordinance shall be erected in connection with a nonconforming use of land.

Sec. 3.07 - NONCONFORMING BUILDING OR STRUCTURE

- 1) CONTINUANCE OF LEGAL NONCONFORMING USE/STRUCTURE. Where a lawful building or structure exists, at the effective date of adoption or amendment of this Ordinance, that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, bulk, or other requirements concerning the building or structure, the building or structure may remain so long as it remains otherwise lawful, subject to the following provisions:
 - a) A nonconforming building or structure may not be enlarged or altered in a way which increases its nonconformity, but any building or structure may be altered to decrease its nonconformity;
 - b) Any nonconforming building or use which is damaged or destroyed, by fire, explosion, or Act of God, may be restored or replaced to the extent of its existence immediately prior to such damage or destruction, provided that required permits for such restoration or replacement are secured, work on restoration or replacement is initiated within a period of one year (12 months) from the date of the damage or destruction, and such restoration or replacement complies with any nuisance abatement requirements. In addition, with the exception of single-family detached dwellings, such restoration or replacement shall comply with current building, architectural, and zoning code structural and dimensional requirements; and

- c) If a nonconforming building or structure is altered or moved for any reason for any distance or replaced, it shall thereafter conform to the regulations for the zoning district in which it is located and the discontinued legal nonconforming features shall not be resumed.
- 2) EXCEPTION. A legal nonconforming single-family or two-family residence and/or its accessory structures which are located in a non-residential zoning district, but within an area that has developed primarily as a residential neighborhood, may be expanded and the expansion shall be for the purpose of continuing the residential use of the property. The residential structure shall comply with the current setbacks required in the zoning district which most resembles the existing residential development in the area.
 - a) Any nonconforming structure or portion of a non-conforming structure may be altered to decrease its non-conformity, or in a way that neither increases nor decreases the non-conformity.

Figure 3.1: Additions to a Nonconforming Structure



Sec. 3.08 - REPAIR AND MAINTENANCE

- 1) On any legally established building or structure, or portion of a building or structure, or a building or structure containing a legally established nonconforming use, work may be done on ordinary repairs, or on repair or replacement of bearing and non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic area existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or portion of any building or structure declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- 2) If a legally established building or structure or portion of a building or structure or a building or structure containing a legally established nonconforming use becomes unsafe or unlawful by reason of physical condition and is razed, such building or structure shall not thereafter be rebuilt or used except in conformity with the regulations of the zoning district in which it is located.

Sec. 3.09 – RESTORATION OF A DESTROYED NONCONFORMING USE

- 1) A non-conforming building which has been damaged by accidental fire, explosion, or act of God to the extent of more than fifty percent (50%) of its reproduction value shall not be restored except in conformity with the regulations of the district in which it is located. When damaged by less than fifty percent (50%) of its reproduction value, a non-conforming building may be repaired or reconstructed and used as before the time of damage, provided that all portions of the structure being restored are not and were not on or over the property line, the non-conformity is not increased, and a Certificate of Occupancy is issued within one year of the date of the damage.

Sec. 3.10 - DETERMINATION OF A NONCONFORMING USE

- 1) In circumstances where there is question whether or not a legal nonconforming use exists, it shall be decided by the Community Development Director.

Sec. 3.11 – TRANSITIONAL USES IN MIXED-USE DISTRICTS

- 1) In the Commercial Mixed Use (CMU) zoning district, existing single-family residential structures may continue to function as legally nonconforming uses under *Chapter III - Nonconformities* of this ordinance, except where said structures have not been occupied or established as a vested right at the adoption of this ordinance.
 - a) At no time shall an established single-family residential structure be subdivided so as to increase the number of residential units in said structure.
- 2) Structures originally constructed for single-family residential use, may be converted to a neighborhood commercial use in *Table 4.3: Permitted and Conditional Uses*, subject to commercial building codes and off-street parking requirements for specific development types.
- 3) Structures originally developed as single-family residential uses, and converted to a commercial use, may be restored to a single-family residential use so long as applicable residential building codes have been met.
- 4) Structures developed for commercial use shall not be converted to a residential use, except for a commercial/residential mixed-use conversion, where residential living space is located above a commercial use at street-level.

CHAPTER V – INFILL DEVELOPMENT STANDARDS**Sec. 5.01 – INFILL DEVELOPMENT STANDARDS**

1) INTENT

- a) Infill development shall be considered to be new development, redevelopment, or expansion of existing legally conforming uses that occurs in an area where at least sixty-six percent (66%) of all lots on both sides of the same street block as the subject lot have been developed into residential or commercial uses, and where infrastructure is already in place. It is the general intent of this Section to:
 - i) Accommodate growth in Villa Rica by encouraging and facilitating new development on vacant, bypassed and underutilized land.
 - ii) Accommodate development in older established residential neighborhoods.
 - iii) Encourage efficient use of land and public services in the context of existing communities.
 - iv) Stimulate economic investment and development in older established communities.
 - v) Provide developers and property owners flexibility so that they can achieve high quality design and develop infill projects that strengthen existing communities.
 - vi) Create a high quality community environment that is enhanced by a balanced compact mix of development and building types that is pedestrian-scaled and, if applicable, transit-oriented.
 - vii) Improve approval certainty for infill development by providing clear development standards.
- b) This section shall not apply to lots zoned Planned Unit Developments (PUDs).
- c) Any relief granted under this section from bulk regulations or supplementary regulations, as permitted herein, shall be applied for via an Administrative Variance application and follow the procedures for such a request as set forth in *Section 11.08 – Administrative Adjustments*.

2) GENERAL REQUIREMENTS

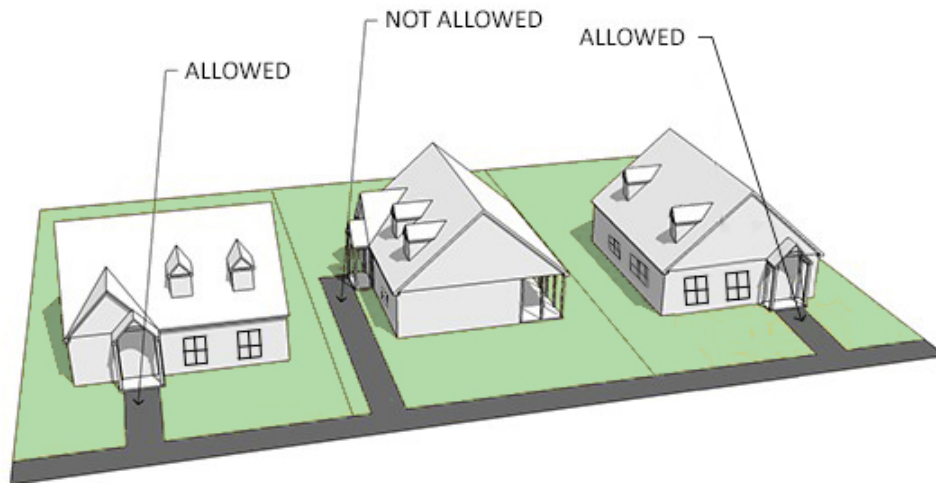
- a) A Development Plan, plat, or certified plot plan shall be required for infill/redevelopment where applicable.
- b) The Development Plan / plat shall incorporate the following elements to enhance compatibility with the surrounding community:
 - i) Sidewalks that connect to the adjacent sidewalk system;
 - ii) Public streets that connect to the adjacent street pattern;
 - iii) Preservation of architecturally significant structures whenever feasible; and
 - iv) Setbacks, building envelopes, use and parking compatible with surrounding community.
- c) All new buildings (except accessory structures) shall have the primary entrance oriented to the street or public walkway, with direct, accessible, and convenient pedestrian connections.

3) PERMITTED USES. Permitted uses shall be determined by the following subsections:

- a) Residential Areas. Areas that are made up of predominantly residential uses but no longer permit residential uses may fall under the provisions of *Subsection 3.06(2)*.
 - i) One accessory apartment dwelling unit per lot may be allowed in addition to the principal dwelling unit. Accessory apartment dwelling standards can be found in *Section 8.02 – Accessory Use and Structure Standards*.
 - ii) Home occupations and home-based businesses are allowed in accordance with *Section 8.11 – Home-Based Business*.
 - b) Commercial and Mixed-Use Areas. Areas that are made up of predominantly commercial or commercial/residential mixed uses may include uses other than what is permitted in the underlying zoning district by right, subject to consistency with uses that are identified as permitted or Special Exception within the Commercial Mixed Use (CMU) zoning district, or the Central Business District (CBD).
 - i) Commercial uses may be mixed vertically or horizontally with residential uses. First floor space shall be restricted to non-residential use in areas of predominantly commercial or mixed-use.
 - ii) Mixed-use should be planned for in the context of existing walkable amenities in the neighborhood or set the standard for future redevelopment.
- 4) LOT AND DEVELOPMENT STANDARDS. Density, design, materials, use and scale should reflect local style, heritage and materials unique to those existing in the surrounding area.
- a) Lot Size. Lot areas shall be dependent on proposed densities, floor area ratios, setbacks, building heights and community compatibility.
 - i) Existing Small Lot Amnesty. A legal lot of record that existed prior to the date of record of this Ordinance, and is being used for infill or redevelopment may use the minimum lot standards that follow.
 - b) Building Height.
 - i) Buildings shall conform to:
 - (1) maximum heights allowed in the zoning district in accordance with *Table 4.4: Residential Lot Standards* or *Table 4.5: Non-Residential Lot Standards*; or
 - (2) a height that is equal to or the average of adjacent building heights.
 - ii) If the proposed building height(s) is greater than the allowed maximum, the proposed building or structure must meet the following criteria for community compatibility:
 - (1) Neighborhood scale
 - (2) Privacy
 - (3) Light and shadow
 - (4) Views
 - (5) Architectural compatibility

- c) Setbacks. Minimum setbacks shall be:
 - i) as required in the zoning district; or
 - ii) the average of the established front and side setbacks on properties within the block or six-hundred (600) feet on both sides of the lot parallel to its side lot lines.
 - b) Bulk and Scale. Bulk and scale shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. Larger buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.
 - d) Flexible Standards. Flexible development standards to reduce lot area, width, setbacks, height, and other standards may be permitted for infill and redevelopment at the discretion of the Director, subject to proof of good cause and benefit to the development and community, to encourage a variety of land uses, and to address difficult sites which incorporate infill and redevelopment or rehabilitation. Building height and coverage may vary so long as the project average height is consistent with the neighborhood scale and architectural rhythm and does not constitute a disruptive condition in the identity of the area as described here or in *Subsection 5.01(5)*.
- 5) COMPATIBILITY STANDARDS. Infill and redevelopment should provide exemplary site design, architectural design and high quality materials that are compatible with, and does not negatively alter the character of, the existing neighborhood. The applicant should refer to *Chapter IX: Design Standards*.
- a) All infill and redevelopment uses shall meet the intent of this chapter and shall be compatible with existing or proposed uses, as identified in the Comprehensive Plan, in the general vicinity of the proposed development. The following requirements shall apply:
 - i) Building Size, Height, Bulk, Mass, Scale. Similar in height and size or articulated and subdivided into massing that is more or less proportional to other structures in the area, and maintains the existing architectural rhythm.
 - ii) Building Orientation. Primary facades and entries face the adjacent street with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways.
 - iii) Privacy. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.
 - iv) Building Materials shall be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc. to establish compatibility.
 - b) All planned uses, building types, and landscaping shall be included on the Development Plan or plat and shall demonstrate the relationship of the proposed development with existing off-site development in the context of the adjacent community. Compliance with these requirements shall in and of itself be deemed to create a presumption of compatibility.

Figure 5.1: Infill Scale and Orientation Example

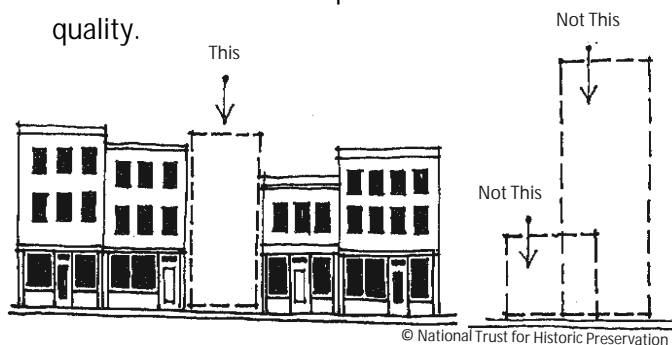


- 6) **OPEN SPACE AND LANDSCAPING.** All open space, recreational amenities, and landscaped areas shall meet the requirements of *Section 7.05 – Landscaping Standards* and *Section 7.13 – Open Space Requirements* unless modified per this subsection, and shall be shown on the Development Plan / Plat.
 - a) Open Space. Non-residential infill development shall provide common public open space, if planned. An open space credit may be granted if a project is connected to, and located within one-fourth (1/4) mile of, an improved public park or common area by a continuous public sidewalk.
 - b) Landscaping. Natural vegetative features and existing trees shall be incorporated into the site design if practicable. Landscaping, buffering, and other plant material requirements may be reduced at the discretion of the Director and approval of the Planning & Zoning Commission. However, the intent of the landscaping to enhance and create a hierarchy of space shall remain. Buffering and screening of incompatible uses shall be maintained.
- 7) **PUBLIC FACILITIES AND UTILITIES.** Existing and planned public facilities should be shown on the Development Plan / Plat.
 - a) All public streets, walkways and alleyways shall be shown on the Development Plan / plat. All through streets and walkways shall be public. The local street and walkway system shall be safe, efficient, convenient, attractive and shall accommodate use by all segments of the population.
 - i) The street and walkway system shall provide multiple, direct and continuous intra- and inter-neighborhood connections between destinations.
 - ii) The street network shall include sidewalks on both sides of the street.

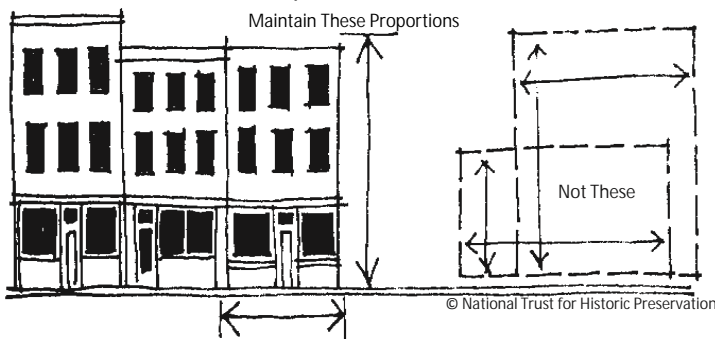
- 8) **PARKING.** Flexibility for the number of parking spaces required by *Section 7.02 – Off-Street Parking and Loading* may be considered if the project is pedestrian-oriented and serviced within six-hundred (600) feet by public parking.
- a) The parking plan may provide a combination of off-street and on-street spaces. On-street parking is encouraged.
 - b) Shared parking is encouraged and shall comply with *Subsection 7.02(20)*.
 - c) As is practicable, at-grade off-street parking areas should be located at the rear of dwellings in mixed-use or residential areas, with alley access.
 - d) Bicycle spaces shall be provided per *Subsection 7.2(23)*.
 - e) Infill development on properties zoned CBD shall be exempt from *Section 7.02 – Off-Street Parking and Loading Requirements*.

Sec. 5.02 – INFILL COMPATIBILITY EXAMPLES

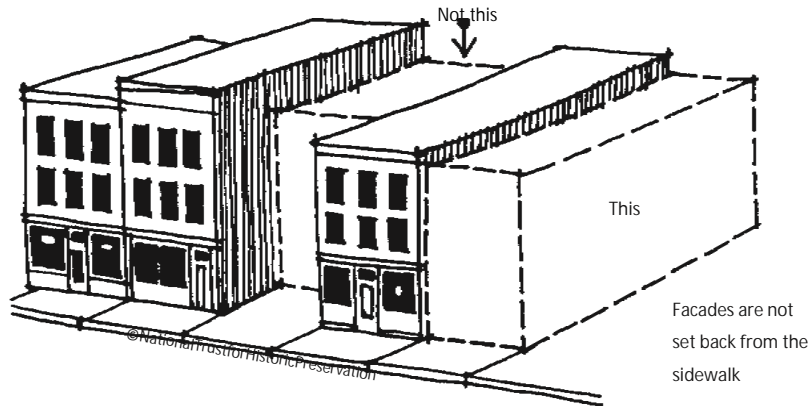
- 1) **HEIGHT.** Buildings in town centers or established neighborhoods share a similar height. Infill construction should respect this. A new facade that is too high or low can interrupt this consistent quality.



- 2) **PROPORTION.** The characteristic proportion (the relationship between height and width) of existing facades should be respected.



- 3) **RELATIONSHIP TO STREET.** The new facade's relationship to the street (setback) should be consistent with that of its neighboring buildings.



- 4) RESIDENTIAL NEIGHBORHOOD COMPATIBILITY. Infill development should be compatible with the established character of the existing neighborhood by utilizing a similar setback and building orientation