Passed: 12/16/2025

AN ORDINANCE

No. 2025-28

AN ORDINANCE TO ADOPT AND ENACT A NEW UNIFIED LAND DEVELOPMENT CODE FOR THE CITY OF GAINESVILLE, GEORGIA; TO REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; TO PROVIDE A PENALTY FOR THE VIOLATION THEREOF; TO PROVIDE FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE; TO ADOPT AND ENACT A NEW OFFICIAL ZONING MAP; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:

SECTION I

The Code entitled "The Unified Land Development Code of the City of Gainesville, Georgia," is hereby amended by repealing and deleting in its entirety Articles 9-1 through 9-24, each inclusive, and adopting in lieu thereof the new Code entitled "The Unified Land Development Code of the City of Gainesville, Georgia," available to the public and elected officials through the City Clerk's office, consisting of Articles 1 through 20, each inclusive (hereinafter referred to as "the ULDC").

SECTION 2

The ULDC referenced in Section 1 hereof embraces ordinances adopted through the effective date of this Ordinance. All ordinances of a general and permanent nature enacted on or before the effective date of this Ordinance, and not included in the ULDC referenced in Section 1 hereof or recognized and continued in force by reference therein, are repealed.

SECTION 3

Unless another penalty is expressly provided, every person convicted of a violation of any provision of the ULDC or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding $1,000.00, imprisonment for a term not exceeding 180 days, or any combination thereof. Except as otherwise provided: (i) with respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense; and (ii) as to other violations, each act is a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of the ULDC, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

SECTION 4

The Official Zoning Map of the City of Gainesville, Georgia is hereby amended by repealing and deleting said Map as existed prior to the effective date of this Ordinance and adopting in lieu

thereof the new Official Zoning Map attached to this Ordinance as Exhibit "A" and incorporated herein by reference.

SECTION 5

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional

SECTION 6

The effective date of this Ordinance shall be upon approval by the governing body of the City of Gainesville.

W. Samuel Couvillon, Mayor

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this Ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

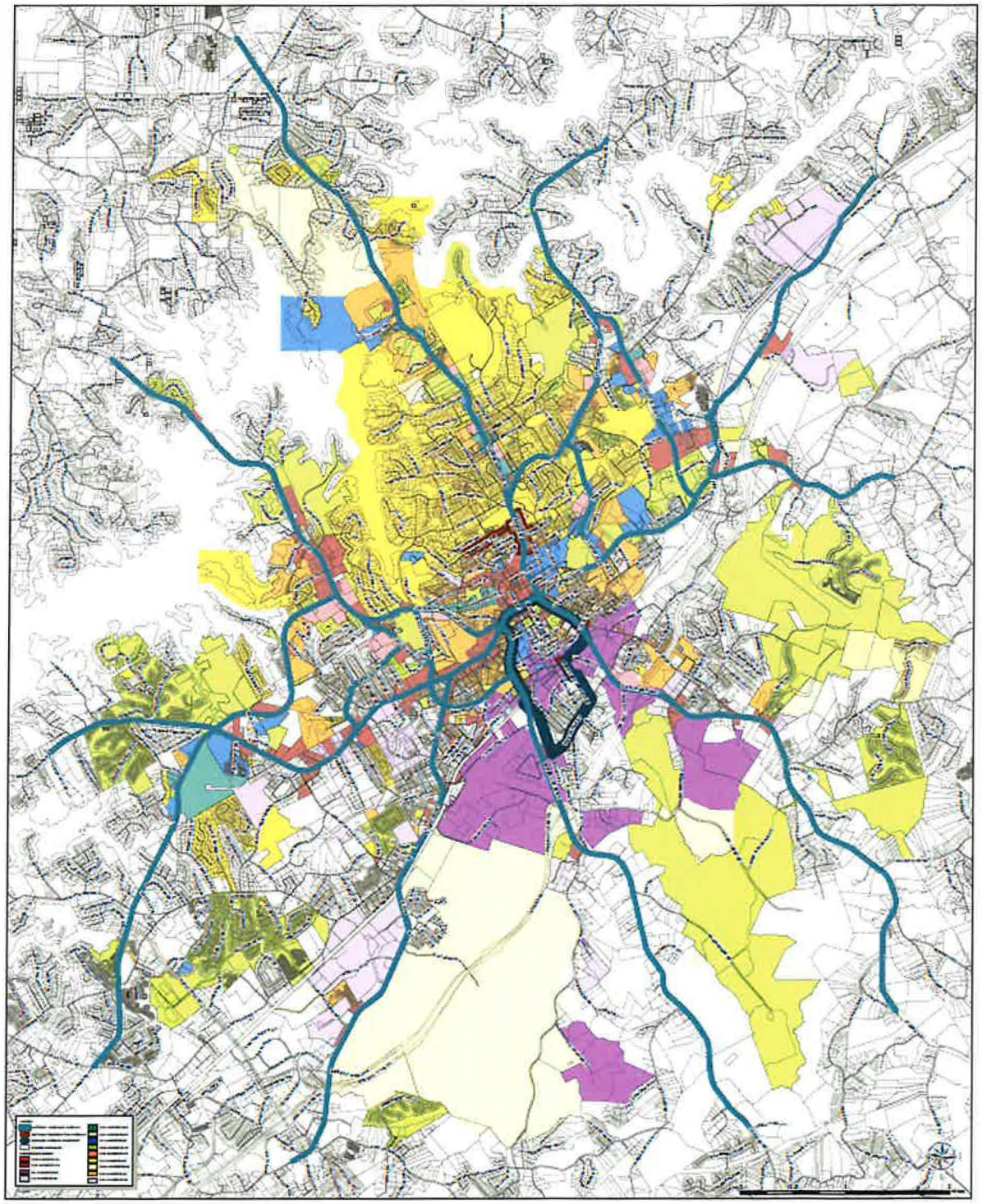
Alisa Grayson, City Clerk

CITY OF GAINESVILLE GEORGIA CHARTERED 1821

Exhibit "A"

GAINESVILLE

OFFICIAL ZONING MAP



GAINESVILLE

UNIFIED LAND DEVELOPMENT CODE

Originally Adopted

December 16, 2025

(As Amended from Time to Time by Ordinance)

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CHAPTER 1-1 PREAMBLE AND ENACTMENT

Section 1-1-1. Title

This document is “The Unified Land Development Code of the City of Gainesville, Georgia” and is referred to or cited throughout the document as “this ULDC.”

Section 1-1-2. Scope

This Ordinance constitutes Title 9 of the Code of Ordinances of the City of Gainesville, Georgia, including regulations governing zoning, land subdivision, historic preservation, land development, building, and related activities among other topics.

Section 1-1-3. Authority

This Code is adopted under authority of Article 9, Section 2, Paragraphs 3 and 4 of the Constitution of the State of Georgia, and pursuant to the Zoning Procedures Law (O.C.G.A. 36- 66-1 et seq.) and other applicable laws enacted by the General Assembly and rules of various departments of state government including but not limited to the following, which shall not be deemed to limit or repeal any other powers granted the governing body under state statutes.

(a) The Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use.

(b) The Georgia General Assembly has enacted the Georgia Historic Preservation Act of 1980 which authorizes local governments to establish historic districts and designate individual properties as historic, and to approve or deny certificates of appropriateness for material changes in appearance in such districts or on such properties designated as historic.

(c) The Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989. Said standards and procedures were ratified by the Georgia General Assembly, and have since been amended. Said rules require local governments that adopt a comprehensive plan pursuant to the Georgia Planning Act of 1989 to describe regulatory measures and land development regulations needed to implement local comprehensive plans.

(d) The Georgia Department of Natural Resources has promulgated Rules for Environmental Planning Criteria, commonly known as the "Part V" Standards. Said rules were ratified by the Georgia General Assembly and have since been amended. Said rules require local governments that adopt a comprehensive plan to plan for the protection of the natural resources, the environment, and vital areas of the state.

(e) The governing body has adopted a comprehensive plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the

Georgia Department of Natural Resources, and the comprehensive plan has been revised from time to time.

(f) The National Pollutant Discharge Elimination System (NPDES) was established by the federal Clean Water Act in 1972 and amended by the Water Quality Act of 1987 to establish the MS4 permitting requirements that require municipalities to minimize pollutants in stormwater runoff. Communities covered under NPDES MS4 permits must additionally comply with the Georgia Water Quality Control Act and adopt portions of the Georgia Stormwater Management Manual. The Georgia Department of Natural Resources requires local jurisdictions within the Metropolitan North Georgia Water Planning District and with Municipal Separate Storm Sewer System (MS4) permits to adopt the Model Ordinances ratified by the District Board.

(g) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Titles 36-71-1 through 36-71-13, has authorized the city to enact development impact fees.

(h) The Georgia Department of Community Affairs has adopted administrative rules, chapter 110-12-2, development impact fee compliance requirements, and the city has adopted amendments to its comprehensive plan which have been found by said department to be in compliance with said administrative rules.

Section 1-1-4. Purposes

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

(a) Implement the comprehensive plan including goals and policies not currently implemented by land use regulations of the city.

(b) Promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens and the city.

(c) Promote responsible growth, lessen congestion in the public streets, secure safety from fire and health dangers, and promote desirable living conditions.

(d) Provide adequate access to natural light and air.

(e) Promote the orderly and desirable subdivision of land and development of streets, blocks, and lots.

(f) Ensure the adequate provision of public facilities, including but not limited to water, sewerage, surface drainage, roads, schools, parks, and playgrounds.

(g) Regulate the height, bulk, and the size of buildings and structures.

(h) Classify land uses, set out zoning districts and overlay districts, establish procedures for the handling of certain land use matters, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values.

(i) Provide for economically sound and stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces.

Section 1-1-5. Adoption

It is hereby ordained by the authority of the Governing Body that the following articles, chapters, and sections, which collectively constitute Title 9 of the Code of Ordinances of the City of Gainesville, Georgia, are adopted.

CHAPTER 1-2 LEGAL STATUS PROVISIONS

Section 1-2-1. Effective Date

This Unified Land Development Code shall take effect as of December 16, 2025.

Section 1-2-2. Repeal of Conflicting Ordinances

(a) Ordinance Number 98-61, adopted November 17, 1998, which repealed the former Title 9 in its entirety and replaced it with a new Title 9, Unified Land Development Code, is hereby repealed and replaced with this Ordinance.

(b) Ordinance Number 2005-37, adopted July 7, 2005, which repealed the former Title 9 in its entirety and replaced it with a new Title 9, Unified Land Development Code, is hereby replaced with this Ordinance.

(c) All other conflicting ordinances or parts of ordinances are hereby repealed to the extent of their conflict. Where this Ordinance and another overlap, whichever imposes the more stringent restrictions shall prevail.

Section 1-2-3. Relationship to Private Restrictions

This ULDC is not intended to repeal, abrogate, or impair any valid easement, covenant, or deed restriction duly recorded with the Clerk of the Superior Court of Hall County, Georgia.

Section 1-2-4. Severability

If any article, chapter, section, subsection, sentence, clause, phrase, or portion of this ULDC or any amendment is adjudged by any court of competent jurisdiction to be invalid or unconstitutional, that judgement does not affect, impair, invalidate or nullify the remainder of this ULDC. The effect of the judgement is confined to the section, subsection, paragraph, clause, sentence, or provision immediately involved in the controversy in which judgement or decree was rendered.

Section 1-2-5. Validity of Existing Conditions of Zoning

Notwithstanding the repeal of prior ordinances as stated in this Chapter, if a property was zoned subject to conditions prior to the adoption of this ULDC, the existing zoning conditions shall continue to apply to said property, until or unless amended by the Governing Body.

Section 1-2-6. Previously Issued Permits

The provisions of this ULDC and its Official Zoning Map shall not affect the validity of any lawfully issued and effective building or development permit if:

(a) The development activity or building construction authorized by the permit commenced prior to the effective date of this ULDC or the amendment, or will be commenced after such effective date but within 6 months of issuance of the permit; and

(b) The development activity or building construction continues without interruption (except because of war or natural disaster) until the development or construction is complete. If the permit expires, any further development or construction on that site shall occur only in conformance with the requirements of this ULDC in effect on the date of the permit expiration.

Section 1-2-7. Governmental Bodies

Except as otherwise specifically provided in this ULDC, all governmental bodies and authorities exempt from regulation under the police power of the City of Gainesville are exempt from the regulations contained within.

Section 1-2-8. Codification

It is the intention of the Governing Body that this ULDC shall become and be made a part of the Code of Ordinances of the City of Gainesville, Georgia, and the articles, chapters, and sections of this ULDC may be renumbered if necessary to fit most appropriately into the Code of Ordinances of the city.

Section 1-2-9. Zoning Compliance Law

(a) This title consists of a unified land development ordinance, crafted as a series of articles.

(b) Zoning Ordinance.

Articles 9-1 through 9-10, Article 9-13 and 9-14, and Articles 9-17 through 9-20 are all intended to constitute a zoning ordinance within the meaning of O.C.G.A. § 36-66-1, et seq. Changes to the text of these articles, as well as Official Zoning Map amendments and other zoning actions addressed in those Articles, require compliance with the public notice and hearing procedures provided in Article 9-18, and in said state statute.

(c) Other Ordinances.

The remining articles are not intended to constitute a zoning ordinance and may be amended using the City's general procedures for ordinance amendment, provided that the Director of Community and Economic Development is notified to ensure that the proposed amendment does not conflict with this ULDC.

(d) No amendment will affect the validity of any permit lawfully issued prior to the amendments ordinance.

CHAPTER 1-3 ZONING DISTRICTS ESTABLISHED

Section 1-3-1. Zoning Districts Established

(a) In order to carry out the intent and purpose of this ULDC, the City of Gainesville is divided into the following districts as established on the Official Zoning Map:

Residential Districts	
R-I-A	Low-density Residential
R-I	Residential I
N-C	Neighborhood Conservation
R-II	Residential II
R-O	Residential and Office
Nonresidential Districts	
O-I	Office and Institutional
N-B	Neighborhood Business
C-B	Central Business
R-B	Regional Business
G-B	General Business
L-I	Light Industrial
H-I	Heavy Industrial
Flexible Districts	
PUD	Planned Unit Development
Special and Overlay Districts	
Airport Overlay	
Gateway Corridor Overlay	
North Oconee Water Supply Watershed Protection Overlay	
Groundwater Recharge Area Protection Overlay	
Wetland Protection Overlay	
Midland Overlay	
Historic Preservation Overlay	

Section 1-3-2. Transition from Previous Districts

Upon adoption of this ULDC, land which is presently zoned within an existing zoning classification which has changed names as set forth above will be reclassified to the applicable new zoning classifications. The boundaries for renamed zoning districts and the conditions of each zoning district will remain the same unless amended in the future in accordance with Chapter 18-2.

CHAPTER 1-4 OFFICIAL ZONING MAP

Section 1-4-1. Official Zoning Map

(a) The boundaries of zoning districts are shown on a map entitled the "Official Zoning Map," which is hereby adopted and made a part of this ULDC.

(b) The Official Zoning Map shall indicate the date of adoption and most recent amendment.

(c) The Official Zoning Map, as adopted by the Governing Body and subsequently amended from time to time by its action, shall be maintained by the Director. The original of the Official Zoning Map shall be kept in the office of the City Clerk.

(d) The Official Zoning Map may be kept electronically in a geographic information system and such electronic data shall constitute an integral part of the Official Zoning Map. The Director may make paper copies of the Official Zoning Maps available to the public for a reasonable fee.

Section 1-4-2. Revisions to Official Zoning Map

No changes of any nature shall be made to the Official Zoning Map except in conformity with amendments to the map approved by the Governing Body. If, in accordance with the provisions of this ULDC, the Governing Body approves changes in the zoning district boundaries or other subject matter portrayed on the Official Zoning Map, such changes shall be made promptly after the amendment has been approved by the Governing Body.

Section 1-4-3. Interpretation of Map Boundaries

The following rules shall apply with respect to zoning district boundaries shown on the Official Zoning Map.

(a) The boundaries of the zoning districts as shown on the Official Zoning Map shall be based on the legal descriptions associated with approved annexation, rezoning, or special use applications or, in the absence of such legal descriptions, the location of the boundary as depicted on the Official Zoning Map. In cases where questions arise as to the boundaries of a zoning district or overlay district, the rules of this section shall apply.

(b) Where boundaries are indicated as approximately following the centerline of streets, highways, or railroads, such centerline, right-of-way lines or such lines extended shall be construed to be such boundaries.

(c) Where boundaries are indicated as approximately paralleling the centerline of streets, highways, or railroads, the location of said boundaries shall be determined by using the edge of such right-of-way.

(d) Where boundaries are indicated as approximately following the corporate limit line of a city, such corporate limit line shall be construed to be such boundaries.

(e) Where boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries.

(f) Where boundaries are indicated as approximately following the centerline of stream beds or riverbeds, such centerline shall be construed to be such boundaries.

(g) Where a public street or other right-of-way is officially vacated or abandoned, and said street or right-of-way is also a zoning district or overlay district boundary, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned public street or right-of-way.

(h) In the case where the exact location of a zoning district or overlay district boundary cannot be determined by the foregoing methods, the Director shall have the authority to determine the location of the boundary. Any such administrative determination is subject to appeal in accordance with Chapter 18-7 of this ULDC.

ARTICLE 2 INTERPRETATIONS AND DEFINITIONS

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CHAPTER 2-1 INTERPRETATIONS

Section 2-1-1. Responsibility for Interpretation

The Director of Community and Economic Development shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this ULDC, unless that authority is provided to another administrative official within a specific article. Interpretations of the Director or other administrative official may be appealed under the provisions of Chapter 18-7. The Director shall have administrative authority of this ULDC.

Section 2-1-2. Interpretations

In the interpretation and application of this Ordinance all provisions shall be considered as minimum requirements. Where the literal interpretation is clear to the Director, it shall be construed literally. Where the Article, Chapter, Section, or Subsection has a statement of purpose and intent, the Director shall consider said purpose and intent in making the interpretation. The Director shall make interpretations in a way that are liberally construed in favor of the Governing Body; provided, however, that where ambiguity exists the Director shall interpret this Ordinance in favor of the free use of property.

Section 2-1-3. Use of Figures

Figures associated with defined terms or regulatory paragraphs in this Ordinance are provided for illustration only and do not limit or change the meaning of the term as defined or the requirements of the regulation as written.

Section 2-1-4. Use of Words and Phrases

For the purpose of this Ordinance, the following shall apply to the use of words and phrases:

(a) Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense.

(b) The masculine person “he” or “his” also means “her” or “hers.”

(c) The word “person” is intended to include any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.

(d) The words “shall” and “must” are always mandatory and not discretionary, while the word “may” is permissive.

(e) The word “and” indicates that all of the conditions, requirements or factors so connected must be met or fulfilled, while the word “or” indicates that at least one condition, requirement or factor so connected must be met.

(f) The term “such as” is intended to introduce one or more examples in illustration of a requirement or point and is intended to mean “including but not limited to the following.”

(g) The word “day” shall mean a calendar day unless otherwise specified.

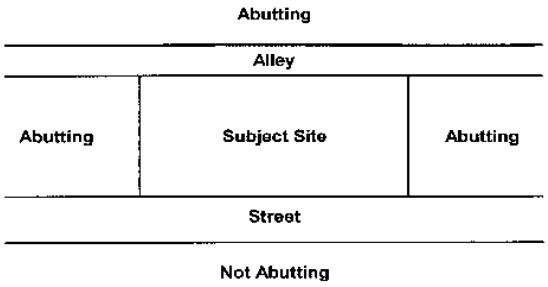
(h) Where a term is defined in this Article or Article 9, it shall be construed to have meaning and application throughout this Ordinance, unless the context clearly indicates otherwise.

(i) Where a term is defined in any Article other than this Article or Article 9, it is generally the intent that such definition applies only within the Article it appears, since it is positioned in the Article to which it most readily refers; provided, however, that this provision shall not prevent the Director from interpreting that defined term as applying outside the strict context of the Article in which it appears, and to that end, all definitions, regardless of location within this Ordinance, apply equally to the use of such terms throughout the Ordinance.

CHAPTER 2-2 GENERAL DEFINITIONS

A

Abutting. Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.



Access. A way or means of approach to provide physical entrance to a property.

Accessible space. A space laid out and designated by signage in accordance with the requirements of the federal Americans with Disabilities Act.

Accessory structure. See "building, accessory".

Alteration. Any change in the supporting members of a building or structure such as bearing walls columns, and girders, except such emergency change as may be required for safety purposes; any addition to a building; any change in use; or, any movement of a building from one location to another.

Annexation. The process by which a parcel of land is transferred from the jurisdiction of unincorporated Hall County to the jurisdiction of the City.

Appearance. The outward aspect of a building or site development that is visible to the public.

Appeal. A request for a review of an administrative official's interpretation of any provision of this ULDC, or a request for a review of an action taken by an administrative official in the application or enforcement of this ULDC.

Architectural appearance, exterior. The architectural character and general composition of the exterior of a building or structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs attached to the building or structure, and any appurtenant elements.

Architectural features. Ornamental or decorative features attached to or protruding from an exterior wall or roof, including cornices, eaves, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

Architectural recesses. Portions of a building wall at street level which are set back from the street line to create articulation of the building wall and/or to provide space for windows or doors.

As-built survey drawings. Drawings specifying the dimensions, location, capacities, and operational capabilities of structures and facilities as they have been constructed.

Awning, internally illuminated. A fixed awning covered with a translucent membrane that is, in whole or part, illuminated by light passing through the membrane from within the structure.

B

Basal area. The cross-sectional area of a tree's trunk at breast height, expressed in square feet or square meters.

Berm. An earthen mound or embankment, usually less than 3 feet if designed to provide visual interest only, and usually 6 feet or more in height if intended to screen views or reduce noise.

Bioretention area. Shallow stormwater basin or landscaped area that utilizes engineered soils and vegetation to capture and treat stormwater runoff.

Bioswale. Grass channels or vegetated open channels that provide biofiltration of stormwater runoff as it flows across the grass surface.

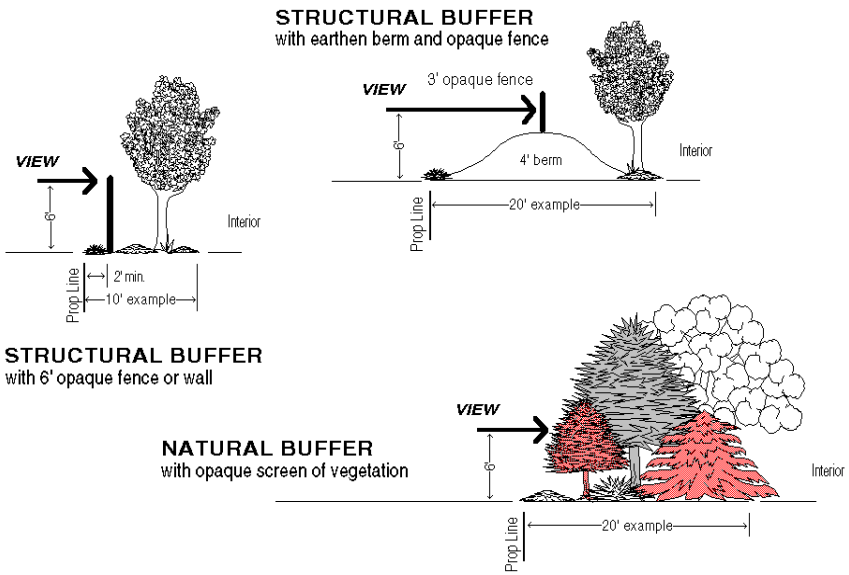
BMP or best management practice. Both structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to prevent or reduce the pollution of the waters of the State of Georgia.

Bollard. A luminaire having the appearance of a short, thick post, used for walkway and ground lighting. The optical components are usually top mounted.

Bond. A bond, letter of credit or approved surety method approved by the City Manager.

Buffer. A strip of land located between a side or rear property line and a building, structure, or use; or a strip of land lying adjacent to a stream. A buffer is intended to separate and provide screening of the view of the site on which the buffer is located from an abutting property, and/or to provide stream protection, as defined and as may be required by this ULDC.

The following buffer types are recognized in this article:



(a) **Buffer, natural undisturbed**. A buffer that contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.

(b) **Buffer, planted**. A buffer consisting of newly planted evergreen and deciduous trees and shrubs native to the region.

(c) **Buffer, structural**. A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, to present an opaque visual separation when viewed from one side to the other throughout the year.

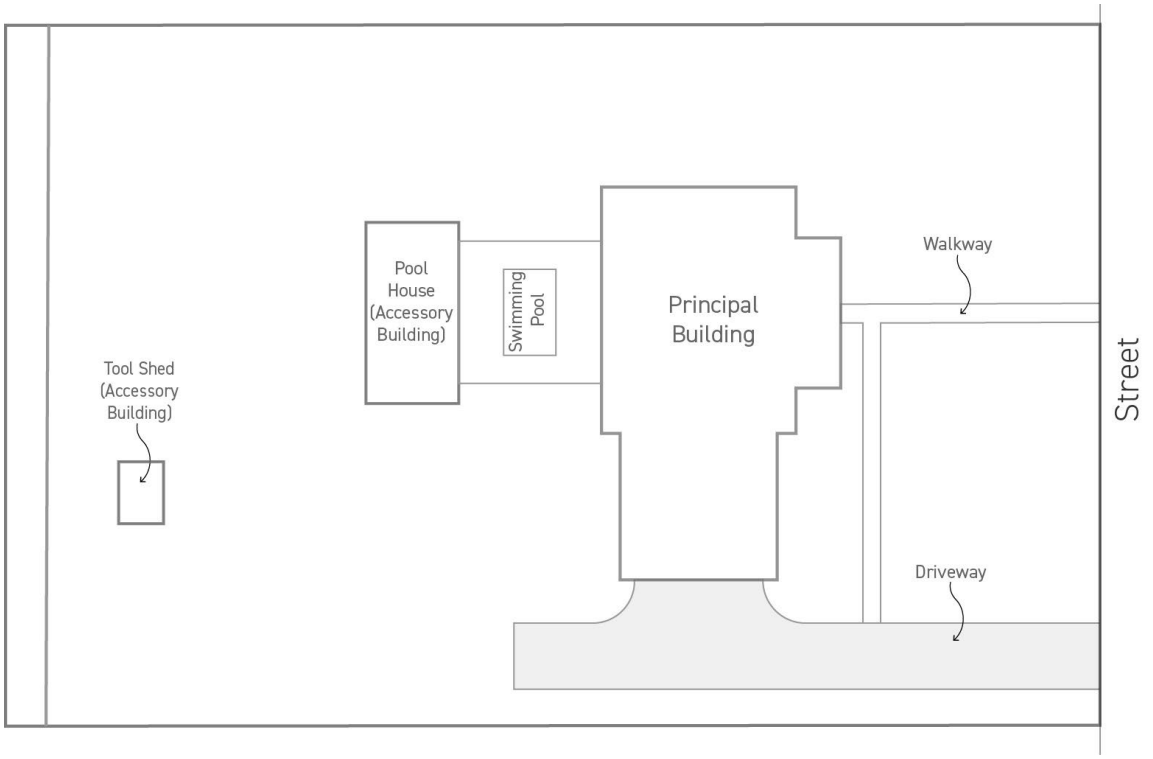
(d) **Buffer, stream**. A natural undisturbed or enhanced vegetated area lying adjacent to a stream as measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.

Buildable area. The portion of a lot which is not located within any minimum required yard, landscape strip, landscaped area, or buffer; that portion of a lot wherein a building or structure may be located.

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

(a) **Building, accessory**. A building or structure subordinate to the main building on a lot in area or extent and used for purposes incidental to or serving the main or principal building or use and located on the same lot as the principal building or use.

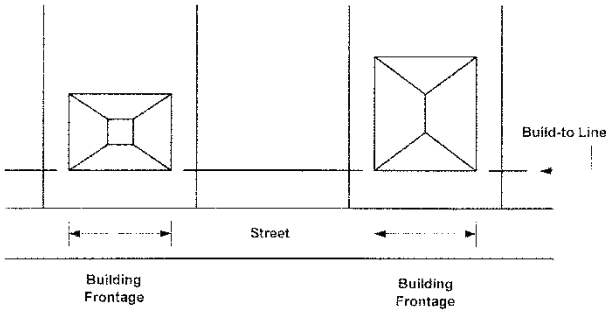
(b) **Building, principal**. A building in which is conducted the principal use of the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be defined as the principal building on the lot on which same is situated, except for accessory dwelling units.



Building footprint. The outline of a building's ground plan from an aerial view.

Building frontage. The width in linear feet of the front exterior wall of a particular building, as measured more or less parallel to the front property line.

Build-to-line. A front building setback line required for a principal building on a particular property so that a continuous and consistent building setback will be achieved considering the front building setbacks of buildings on abutting and/or adjacent lots on the same side of the street or right-of-way. Build to lines, when required, supersede front yard setback requirements of the applicable zoning district.

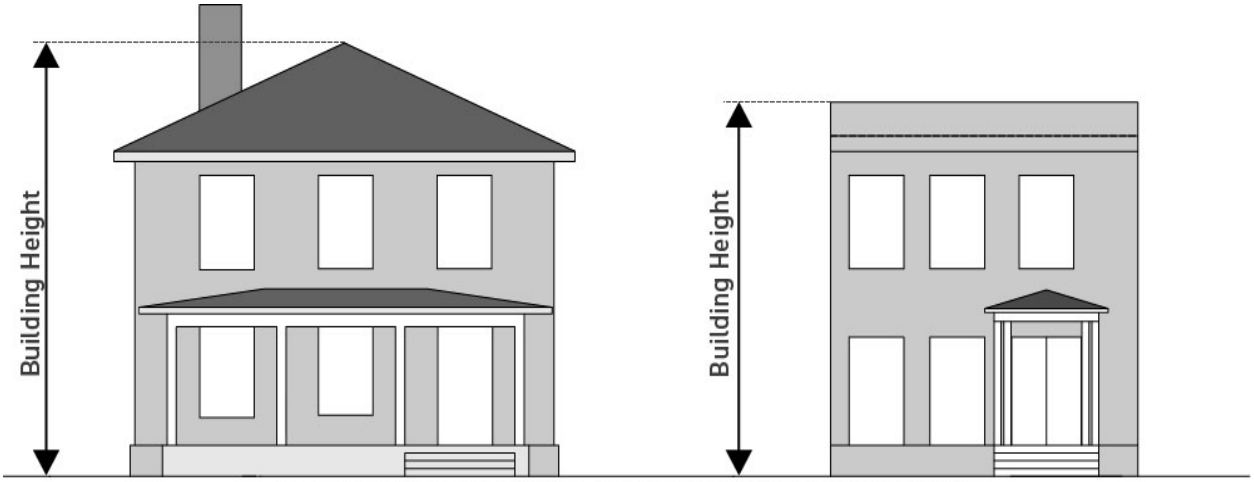


Building Frontage and Build-To Line

Building coverage. The horizontal area measured within the outside of the exterior walls of the ground floor (i.e., "footprint") of all principal buildings, accessory buildings, and accessory structures on the lot, not including steps, terraces, and uncovered porches.

Building coverage, maximum. The percentage of a given lot that may be occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the exterior walls of the ground floor (i.e., "footprint") of all principal and accessory buildings and structures on the lot, not including steps, terraces, and uncovered porches.

Building height. The vertical distance measured to the highest point of a building from the average finished grade across those sides of a building that face a street.



Building Official. The city official responsible for implementing and enforcing the applicable building codes of the city.

Building setback line. A line establishing the minimum allowable distance between the front wall of a principal building (excluding roof overhangs of 36 inches or less) and the street right-of-way line or a side or rear building wall and a side or rear property line when measured perpendicularly thereto. For purposes of this ULDC, a minimum required building setback line and minimum required yard shall be considered the same.

C

Caliper. The diameter of a tree measured at a point 6 inches above the ground or top of root ball for up to and including 4-inch caliper trees, and at a point 12 inches above the ground or top of root ball for larger sizes.

Canopy tree. A species of tree that normally reaches a height at maturity greater than forty feet and is used primarily for shade, such as red oak, Shumard oak, Chinese elm, white oak, pin oak, and American beech. May also be referred to as an overstory tree.

Certificate of occupancy. An approval issued by the building official, indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

City. The City of Gainesville, Georgia.

City Engineer. The director of the Public Works Department, or the director of the Department of Water Resources, and means the staff professional engineer responsible for implementing and enforcing the applicable engineering requirements of this ULDC and those other engineering requirements of the city.

Character area. Any of the specific areas delineated as character areas in the city's comprehensive plan.

Clapboard. A wood exterior siding material that is applied horizontally and overlapped with the lower edge thicker than the upper edge**.**

Commercial vehicle. Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of commercial enterprise; or, any vehicle with a gross weight over one ton designed or used for electrical, plumbing, heating and cooling, landscaping, and other construction or service-related contractors.

Compatibility. The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include. intensity of occupancy as measured by dwelling units per acre or gross square footage per acre; pedestrian or vehicular traffic generated; volume of goods handled, and such environmental affects as noise, vibration, odor, glare, air pollution or radiation.

Comprehensive plan. Any plan adopted by the governing body, or any plan adopted by a regional development center covering the local jurisdiction, or portion of such plan or plans. This definition shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document, or written recommendation pertaining to subjects normally within the subject matter of a comprehensive plan as provided by the Georgia Planning Act of 1989, if formally adopted by the governing body of a participating municipality.

Concept plan. A document submitted with an application for a rezoning, zoning amendment, annexation, or other type of application upon which the applicant has shown the intended development and its design. Approval of the application request shall not constitute approval of the concept plan; said plan must be adjusted according to the requirements listed for submittal of civil plans or building plans and reviewed by the appropriate departments for permitting.

Condition of zoning approval. A requirement adopted by the city council at the time of approval of a rezoning, zoning amendment, special use or annexation; placing greater or additional requirements or restrictions on the property than provided in this ULDC to reduce an adverse impact of the request and to further protect the public health, safety, or general welfare.

Consumer fireworks. Any small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the United States Department of Transportation as provided for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall mean Roman candles. The term consumer fireworks shall not include:

(a) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices

using such paper caps; nor shall the term consumer fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and

(b) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

Consumer fireworks retail sales facility. Shall have the same meaning as provided for by the National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition (NFPA 1124).

Coping. The capping member of a wall that covers and protects the wall from the effects of weather.

Cornice. Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line.

Critical root zone. The land area circular in shape and centered on the trunk of a tree, the radius of which circle is determined by the farthest extent of the drip line from the trunk.

Curb break or curb cut. Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property. May also refer to an opening in the curb that allows stormwater to flow into a landscaped area or best management practice.

D

Deceleration lane. An added roadway lane, of a specified distance and width and which may include a taper, which permits vehicles to slow down and leave the main vehicle stream.

Density. The quantity of building per unit of lot area; for example, the number of dwellings per lot area (gross square foot or per acre).

Dentil. Any of a series of closely spaced, small, rectangular blocks forming a molding or protecting beneath the cornice.

Designation. A decision by the governing body to designate a district or property as "historic" and thereafter prohibit all material changes in appearance prior to the issuance of a certificate of appropriateness pursuant to this ULDC.

Design guideline. A standard of appropriate activity that will establish, preserve, or enhance the architectural character and site design and function of a building, structure, or land development.

Detention facility. A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; any activity which alters the elevation of the land, removes or destroys plant life, or causes structures of any kind to be erected or removed.

Development permit. An official authorization issued by the Director in accordance with this ULDC to proceed with land disturbance and grading, as set forth in this ULDC.

Development site. Any and all areas within which "development" takes place.

Diameter at breast height (DBH). The diameter of a tree trunk (usually a mature tree) measured at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Direct light. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminary.

Director. The director of the Department of Community and Economic Development of the city, or their authorized designee.

Dormer. A small window with its own roof projecting from a sloping roof. Dormers are projections that provide ventilation, light, and additional space for attic areas.

Drip line. A perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

Driveway. A constructed vehicular access serving one or more properties and connecting to a public or private street.

Dwelling. Any building or portion thereof which is arranged, designed or used for living quarters for one or more families on a permanent or long-term basis.

E

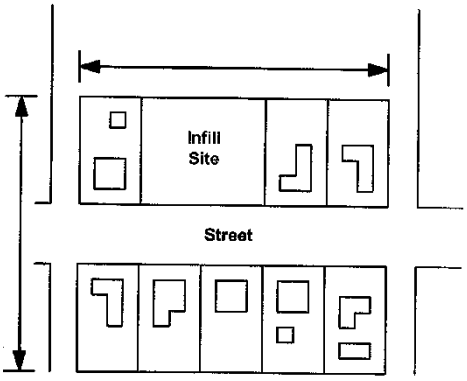
EPD director. The director of the environmental protection division of the Georgia Department of Natural Resources.

Elevation drawing. An architectural drawing of a building or building facade, intended to illustrate its design, characteristics, and major features.

Environmental health department. The Hall County Environmental Health Department.

Established residential area. The portion of a block facing the same street as the land proposed for infill residential development and that portion of the block across the street from the proposed development facing the same street as the land proposed for infill residential development.

Exterior insulating and finish system (EIFS). Exterior wall cladding system consisting primarily of polystyrene foam board with a textured acrylic finish that resembles plaster or stucco.



Infill Site and Established Residential Area

F

Facade. The face or exterior elevation of a building, especially the face parallel to or most nearly parallel to a public street.

Family. Any number of individuals related by blood, marriage, adoption or guardianship, or a group of not more than 4 unrelated persons, occupying a single dwelling unit; provided, however, that domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families.

Fenestration. The organization of windows or openings on a building wall.

Fireworks. Any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance. The term fireworks shall not include:

(a) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices

using such paper caps; nor shall the term fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and

(b) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

Fixture. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flashing. Thin pieces of metal used for waterproofing joints.

Floodplain. Any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

Floor area. The sum of all square footages of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The following areas are excluded from the measurement of floor area: unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Floor Area Ratio (FAR). The ratio of the floor area of a building to the area of the lot in which the building is located.

Flowering ornamental tree. A tree, other than a canopy tree, that produces seasonal flowers and blossoms and is used primarily for aesthetic or ornamental purposes (e.g., flowering dogwood; eastern redbud).

Footcandle. A unit of measure of the intensity of light falling on a surface, equal to 1 lumen per square foot and originally defined with reference to a standardized candle burning at 1 foot from a given surface.

Full cutoff luminary. Outdoor light fixtures shielded or constructed so that no direct light rays are emitted by the installed fixture at angles above the horizontal plane.

G

Gable. The triangular upper portion of an end wall, underneath a peaked roof.

Governing body. The Mayor and City Council of the City of Gainesville, Georgia.

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

H

Historic and landmark trees. Any tree or group of trees which the state urban forest council has included on the state landmark and historic tree register.

J

I

Impervious surface. A man-made structure or surface, which prevents the infiltration of water into the ground below the structure or surface. Examples are buildings, structures, roads, driveways, parking lots, decks, swimming pools, or patios.

Improvements. The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

Industrialized building. Any structure or component thereof which is designed and constructed in compliance with the state minimum standards codes and is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof.

Infill lot. Any vacant lot or undeveloped parcel within already developed areas of the city. Such lots typically have access to existing infrastructure such as water, sewer, and other services provided by the city. Does not include vacant land which has been annexed.

L

Land development. Any land change, including but not limited to clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land disturbance. Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land-disturbing activity. Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land but not including plowing and tilling for agricultural practices.

Landscape strip. An area of landscaping of specified width.

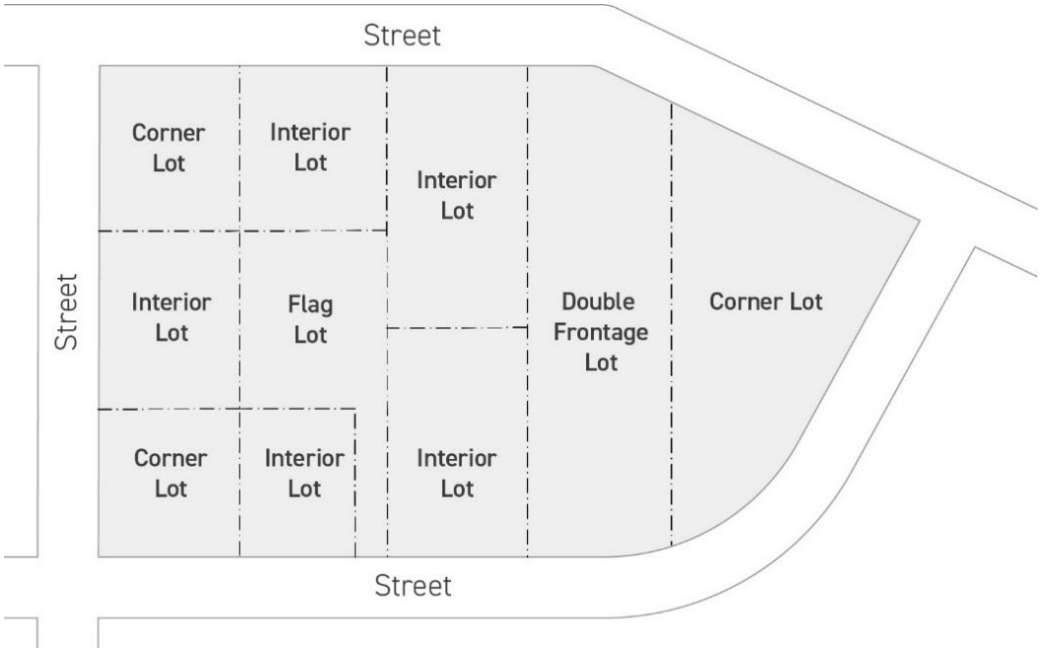
Lot. A parcel or tract of land held in single ownership.

(a) **Corner lot**. Any lot bounded by two streets at their intersection.

(b) **Double frontage lot**. A lot bounding on two or more streets, but not at their intersection, so that it is not a corner lot.

(c) **Flag lot**. A lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width for construction of a building or structure on that lot.

(d) **Interior lot**. A lot having frontage on only one street.



Lot area. The total horizontal area included within lot lines.

Lot area, minimum. The smallest permitted total horizontal area within the lot lines of a lot, exclusive of street rights-of-way but inclusive of easements.

Lot depth. The mean horizontal distance between front and rear lot lines.

Lot frontage. The width in linear feet of a lot where it abuts the right-of-way of any street.

Lot width. The distance between side lot lines measured along the front principal building setback.

Lot Lines. The boundary dividing a given lot from the street, an alley, or adjacent lots.

(a) **Front lot line**. A lot line meeting any of the following criteria will be designated as a front lot line:

(1) On interior lots and flag lots, the lot line abutting a street.

(2) On double frontage lots, the two shortest lot lines abutting a street.

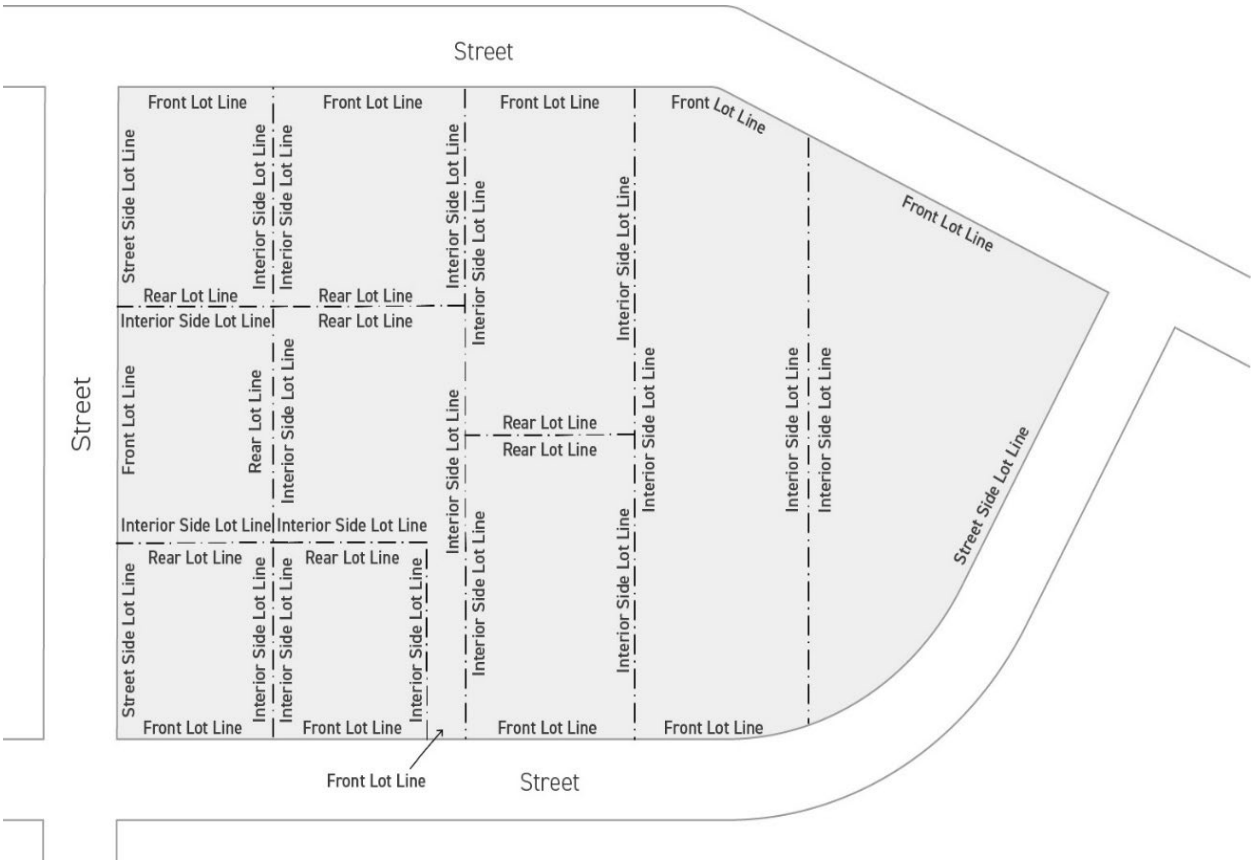
(3) On corner lots, the shortest lot line abutting a street.

(b) **Rear lot line**. Any boundary line of a lot that does not intersect with a street right-of-way line and is most distant from a front lot line.

(1) In the case of double frontage lots, there is no rear lot line.

(c) **Interior side lot line**. Any boundary line of a lot is not designated as a front lot line, rear lot line, pr side lot line.

(d) **Street side lot line**. Any lot line abutting a street that is not designated as a front lot line.



Low impact development (LID). An approach to land development or redevelopment that seeks to emulate the natural water cycle as much as possible and reduce the negative impacts of development and impervious cover by using stormwater better site design techniques and BMPs that encourage infiltration, evapotranspiration, and/or harvest and use of stormwater runoff onsite.

Luminary. A complete lighting system, including a lamp or lamps and a fixture. This term shall be interpreted broadly as applying to all outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement.

M

Manufactured home. A dwelling fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying that it is constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.), which first became effective on June 15, 1976. The term "manufactured home" includes a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term includes any structure which meets all the requirements of this definition except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

Manufactured home park. Any lot or parcel under single ownership on which 2 or more manufactured homes are to be located or intended to be located for purposes of residential occupancy.

Massing. The exterior form of a building, a structure or a series of buildings seen as a whole, encompassing the bulk, shape, height, widths, scale, proportion, and the spatial relationship of buildings, landscaping, and open space.

Mixed-use development. Development of a single building or single parcel to contain 2 or more of the following types of uses: residential, commercial, office, or institutional. Mixed uses may be combined vertically within the same building or placed side by side on the same parcel, provided they are planned as a unified and complementary whole and functionally integrated to make use of shared vehicular and pedestrian access and parking areas.

Mobile home. A dwelling manufactured prior to June 15, 1976, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Modulation. A measured setback or offset within the facade of a building or structure.

Model home. A dwelling unit which has never been occupied and is temporarily used for display purposes as an example of dwelling units available or to be available for sale or rental in a residential development. Model homes may be furnished and decorated and may incorporate sales or rental offices as a temporary use.

N

New development. Land development activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

O

Occupied. The word "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Open space. Areas that are set aside for common use and protected through a legal instrument approved by the City. The purpose of open space is to provide separation, resource protection, scenic enjoyment, recreation, or amenity to abutting developed property. Areas designated as open space shall not be included in minimum lot areas required by this ULDC.

Open space, landscaped. That portion of a given lot, not covered by buildings, parking, access and service areas, that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening and buffering for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to, grass lawns, decorative planting, berms, walls and fences, sidewalks/walkways, ornamental objects such as fountains and other similar natural and man-made objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within and exterior to the development.

Overlay district. A defined geographic area that encompasses one or more underlying zoning districts and that imposes additional requirements above those required by the underlying zoning district. An overlay district can be coterminous with zoning districts or contain only parts of one or more such districts.

P

Parapet. That portion of a wall which extends above the roof line.

Parcel. Any plot, lot or acreage shown as a unit on the latest county tax assessment records.

Parking aisle. The traveled way, which is not the public right-of-way, by which cars enter and depart parking spaces and maneuver within a designated parking lot.

Parking bay. Three or more parking spaces adjacent to one another and aligned side- by-side.

Parking lot. Any public or private area at grade used for the express purpose of temporary vehicle storage otherwise in operation for personal or business use.

Parking space. A space meeting required dimensions for width and length and identified and set aside for the temporary parking of an automobile or other motor vehicle.

Parking structure. A building or structure used for the express purpose of temporary vehicle storage otherwise in operation for personal or business use.

Parking, bicycle. An area in a parking lot, along a sidewalk, or adjacent to or within a building or structure that is designed and marked for the purpose of securing bicycles in an upright fashion, using a locker or open framework that is permanently attached to the ground and providing secure anchorage for three or more bicycles.

Pedestrian-scale development. Development designed with an emphasis on the sidewalk and pedestrian access to the site and buildings. Buildings are generally placed close to the street and the primary entrance is oriented to the sidewalk. There are generally windows or display cases along building facades which face the street.

Permit. The land development permit issued by the city required for undertaking any land development activity.

Permitted use. A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay zone.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

Pervious paving. Materials used to surface parking lots and driveways that are designed to meet the requirements of materials described in the latest edition of Volume 2 – Technical Handbook of the Georgia Stormwater Management Manual as the porous concrete or modular porous paver systems under the limited application stormwater structural controls.

(a) **Porous concrete**. A mixture of coarse aggregate, Portland cement and water that allows for rapid infiltration of water and overlays a stone aggregate reservoir.

(b) **Modular porous paver systems**. A pavement surface composed of structural units with void areas that are filled with pervious materials such as sand or grass turf. Porous pavers are installed over a gravel base course that provides storage as runoff infiltrates through the porous paver system into underlying permeable soils.

Planning and Appeals Board. The Planning and Appeals Board of the City; also known or referred to as the "Planning Commission."

Plaza. An open area adjacent to a building that functions as a gathering place and may incorporate a variety of nonpermanent activities.

Porch. A projection from a building wall which is covered but enclosed on no more than one side by a vertical wall.

Portico. An exterior appendage to a building, normally at the entry, usually roofed.

Porous materials. Porous asphalt, porous concrete, permeable pavers, or turf block or other porous materials approved by the department of water resources director or designee. Turf block consists of interlocking concrete or plastic cells filled with soil and planted with turf grass or a low-maintenance groundcover.

Premises. An area of land with its appurtenances and buildings which is one unit of real estate because of its unity of use.

Prism method. A method where a wedge-shaped prism of glass is used to determine trees that must be included in a sample area.

Property. See "Lot."

Proportion. Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

Professional engineer. An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the state.

Public works director. The director of the Department of Public Works of the City, or their designee, whose duties include the review and approval of construction plans for public streets for the City.

Q

R

Recreational vehicle. Vehicles or equipment used for recreational activities such as boats, boat trailers, travel trailers, recreational vehicles, pick-up campers or coaches, motorized dwellings, motor coaches, tent trailers and other similar vehicles.

Redevelopment. The structural development (construction, installation or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surface not part of routine maintenance, and land disturbing activities associated with structural or impervious development. Redevelopment does not include such activities as exterior remodeling.

Registered land surveyor. A land surveyor licensed and registered to perform the duties of a registered land surveyor (R.L.S.) by the state.

Residential industrialized building. Any dwelling unit designed and constructed in compliance with the Georgia State Minimum Standard One and Two Family Dwelling Code which is wholly or in substantial part made, fabricated, formed, or assembled in a manufacturing facility and cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Any such structure shall not contain a permanent metal chassis and shall be affixed to a permanent load-bearing foundation. The term shall not include manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq.

Retail display window. A window or opening in the exterior wall of any portion of a building used for business purposes, through which merchandise, services, or businesses are displayed or advertised and visible from the ground or sidewalk level.

Rezoning. An amendment to the official zoning map that changes the zoning district of one or more properties specified in an application; provided, however, that changes to the historic preservation overlay zone are not considered “rezoning” for purposes of this ULDC and are instead regulated by the provisions of Title 9Section 7-7-4 of this ULDC. Rezoning also includes applications to change conditions of zoning approval.

Right-of-way. Land reserved for and immediately available for public use as a street or other purpose.

Riparian. Any area belonging or related to the bank of a river, stream, lake, pond or impoundment.

Roof. The cover of a building, including eaves and similar projections.

(a) **Roof, flat**. A roof having no pitch or a pitch of not more than 2:12.

(b) **Roof, gable**. A roof sloping downward in two parts from a central ridge, so as to form a gable at each end.

(c) **Roof, hipped**. A roof with slopes on all four sides meeting at a ridge or at a single point.

(d) **Roof, pitched**. A shed, gabled, or hipped roof having a slope or pitch of at least one foot rise for each four feet of horizontal distance.

S

Scale. Proportional relationships of the size of parts to one another and to humans.

Setback. The minimum distance between a street right-of-way, lot line, or other designated area and a structure or building or projection therefrom (excluding roof overhangs of 30 inches or less). Setbacks apply to both principal and accessory buildings or structures, except where it explicitly states otherwise in the ULDC. There are four types of setbacks, described as follows:

(a) **Front setback**. The front setback distance is applied along the full length of the right-of-way line and is parallel to it.

(b) **Rear setback**. The rear setback extends along the full length of the rear lot line.

(c) **Side interior setback**. The side interior setback extends along the side lot line between the front setback and rear setback (if any).

(d) **Side street setback**. The side street setback extends along the side street lot line between the front setback and rear setback (if any).

Shade tree. A broadleaf tree having an average height at maturity of at least 20 feet and having a broad spread relative to its height (excluding trees with pyramidal, conical, or columnar crowns) and a dense canopy, to provide shade to structures or parking areas in the summer months.

Shopping center. A group of commercial uses with a site and building composition that is an architectural unit and is not a miscellaneous assemblage of stores; planned, developed, owned and managed as a unit related in location, size, and type of shops to the trade area that the unit serves, and providing on-site parking in definite relationship to the types and sizes of stores services (laundry, dry cleaning, barbering, shoe repair, etc.) for the day-to-day living needs of the immediate neighborhood, and is usually built around a supermarket or other large-scale retail which is the principal tenant.

Shrub. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground, and generally obtaining a height less than 8 feet; a shrub may be deciduous or evergreen.

Sidewalk. A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a street.

Sight visibility triangle. The areas at the corners of an intersection of two streets, or at the intersection of a street and driveway, that are to be kept free of all shrubs, ground covers, berms, fences, structures, or other materials or items between a height of 2.5 and 12 feet as measured from the ground.

Sign. Any identification, description, illustration, device, fixture, structure, display or visual representation, which is visible from any public place and affixed to, or supported or suspended by, a stationary object, structure, building or the ground that uses any color, form, character, symbol, graphic, image, illumination, or writing to announce, direct attention to, identify, or advertise an object, idea, location, place, person, institution, organization, business, product, service, activity or event or to otherwise visually communicate information, ideas or messages of any kind to the public. "Sign" includes the sign face and sign structure. For additional definitions related to signs, see Article 14.

Significant tree. A tree in fair or better condition which has been determined to be of a high value by an Arborist, Forester, or other qualified professional because of its species, size, age or other professional criteria. A tree is considered in fair or better condition if:

(a) Its life expectancy is greater than 15 years;

(b) It has a relatively sound and solid trunk with no extensive decay or hollow with less than 29% radial tip die-back; and

(c) It has no major insect or pathological problems.

(d) Trees with a diameter at breast height (DBH) of 10 inches or great. A tree of lesser size than the preceding shall be significant if it is a rare or unusual species or is of historical significance.

Site density factor. The minimum number of tree density units per acre, including recompense for significant and historic/landmark trees, that must be achieved on a property after development.

Special use. A use that would not be appropriate generally or without restriction throughout a particular zoning district and is not automatically permitted by right within said zoning district, but which, if controlled as to number, area, location, relation to the neighborhood or other pertinent considerations, may be found to be compatible and approved by the governing body within that particular zoning district as provided in certain instances by this ULDC. An approved special use runs with the property.

Specimen tree. Any tree or grouping of trees which has been determined, by the director of community and economic development, to be of high value because of its species, size, age, or other professional criteria.

Stormwater better site design. Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, implementing lower impact site design techniques, and using natural features for stormwater management.

Story. That portion of a building, other than a basement, included between the surface of any floor and the floor next above, or if there is not floor above, the space between the floor and the ceiling next above. The first floor of a 2 or multi-story building shall be deemed the story that has no floor immediately below it and that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

Stream. A stream is defined as beginning at:

(a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or

(b) A point in the stream channel with a drainage area of 25 acres or more; or

(c) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Director of Water Resources may require field studies to verify the existence of a stream.

Stream bank. The sloping land that contains the stream channel and the normal flows of the stream.

Stream buffer setback. An additional setback, measured horizontally, extending beyond the undisturbed stream buffer, in which all impervious cover shall be prohibited and grading, filling and earthmoving shall be minimized.

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

Stream protection area. This area refers to the combined areas of all required stream protection buffers and setbacks applicable to a stream.

Street. An improved way for the conveyance of motor driven, rubber-tired vehicles, such as automobiles and trucks.

Street furniture. Those features associated with a street that are intended to enhance the street's physical character and use by pedestrians, including benches, trash receptacles, planting containers, pedestrian lighting, kiosks, and other objects as determined by the Director.

Street hardware. Objects other than buildings or street furniture that are part of the streetscape. Includes non-pedestrian street light fixtures, utility poles, traffic lights and their fixtures, fire hydrants, and other objects as determined by the Director.

Streetscape. The appearance and organization along a street of buildings, paving, plantings, street hardware, street furniture, and miscellaneous structures.

Structure. Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground. For purposes of this ULDC, parking structures, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Walls and fences are considered structures but are subject to setback regulations for walls and fences rather than principal or accessory building setback regulations. Driveways and parking lots are not considered structures.

T

Timber cruising method. A forest inventory method that involves systematically sampling a forest to determine the volume, species, quality, and other characteristics of the standing timber. Data collected from these sample plots, including tree species, diameter, height, and quality, are used to estimate the total timber volume and value of a forest stand.

Tree density unit. A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this ULDC.

Tree protection area. Any portion of a site where existing trees are located that are proposed to be retained to comply with the requirements of this ULDC, or any other existing trees proposed to be retained due to zoning conditions or requirements from other ordinances.

Tree protection and/or replacement plan. A plan that identifies "tree protection areas," existing trees to be retained and proposed trees to be planted on a site to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information.

Tree save area. Any portion of a site with existing trees that are proposed to be retained in order to comply with the requirements of this ULDC. The tree save area shall include no less than the total area defined by the critical root zone (CRZ) of a tree or a group of trees, collectively.

U

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

Use, supportive commercial. A use of land or a building, or portion thereof, other than the principal use that may be located on the same parcel with such principal use to provide a convenient source of commercial goods or services for the occupants of the principal use of the land or building. Supportive commercial uses are intended and designed to reduce traffic and the need for occupants of surrounding buildings to make automobile trips for daily needs.

Used. The word "used" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Utilities. All public, private, and municipal, above or below ground, infrastructure systems providing water, stormwater, sanitary sewer, natural gas, electricity, telecommunications, cable television or internet, services; or any other service controlled by the State public services commission.

Utility lines. Linear features of utilities, such as pipes, conduit or cables, as well as junctions and ancillary facilities.

V

Variance. A grant of relief from the requirements of this ULDC which permits construction or use in a matter otherwise prohibited, which may be approved in individual cases upon application and applied to specific property where compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

(a) **Variance, administrative**. A variance which is authorized to be approved by an administrative official under the terms of this ULDC.

(b) **Variance, improvement standards**. A variance which relieves or modifies an applicant or subdivider of certain subdivision or land development specifications or standards under the terms of this ULDC.

Variance, zoning. A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading, or other regulations which are dimensional in nature as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the

property, compliance would result in a particular hardship upon the owner, and will not be contrary to the public interest.

W

Wallpack. A wall-mounted luminary.

Water Resources Director. The director of the Department of Water resources of the City, or their designee, whose duties include the review and approval of construction plans for drinking water, sanitary sewer and stormwater for the City.

Watershed. A watershed refers to the land area that drains into a particular stream.

Y

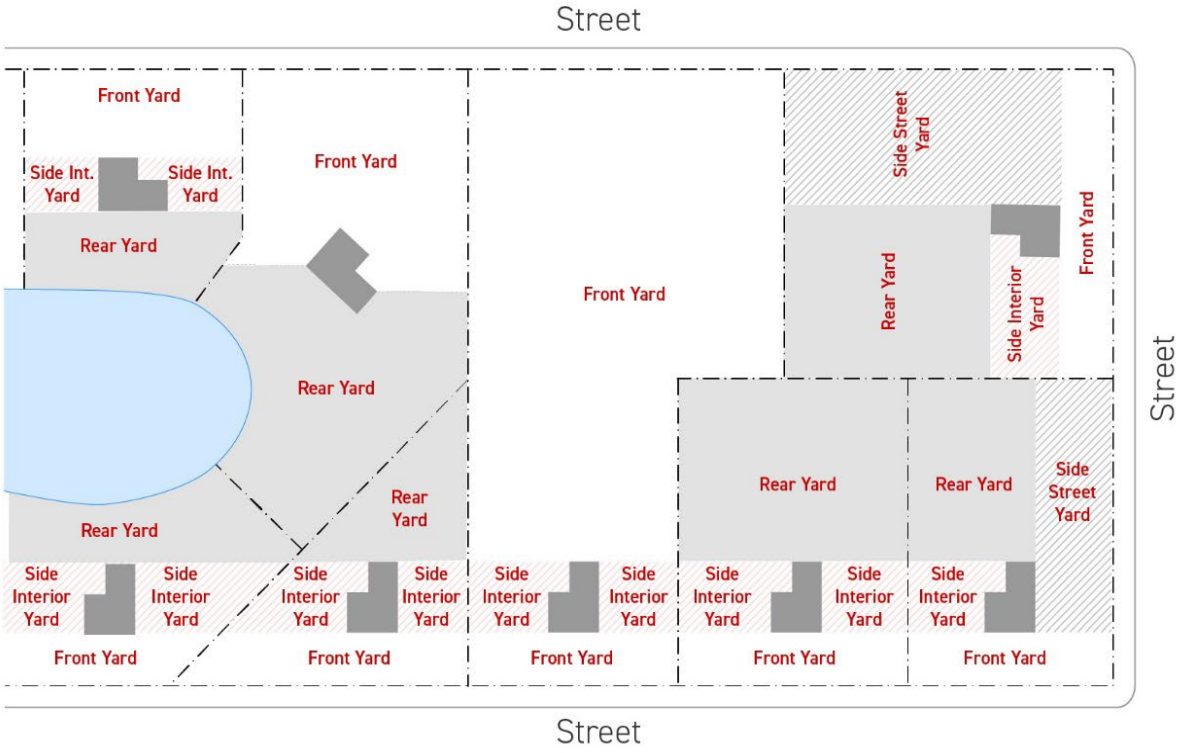
Yard. A space on the same lot with a principal building, open unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted. Yards may be designated as follows:

(a) Front yard.

(b) Rear yard.

(c) Interior side yard.

(d) Side street yard**.**



Z

Zoning map. The official zoning map or maps of the City.

ARTICLE 3 GENERAL PROVISIONS

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CHAPTER 3-1 GENERAL PROVISIONS

Section 3-1-1. Every Use Must Be Upon a Lot of Record

No building or structure shall be erected or use established unless upon a lot of record as defined by this ULDC unless specifically provided otherwise in this ULDC.

Section 3-1-2. One Single-family Dwelling Per Lot of Record

Only one detached, single-family dwelling unit under fee-simple ownership shall be permitted on a single lot of record, except as otherwise permitted by this ULDC. This Section shall not be construed to prevent the location of more than one detached single-family dwelling under condominium ownership on a single lot of record, where permitted, or the location of more than one non-residential building on a single lot of record.

Section 3-1-3. General Architectural Standards

(a) When more than one building is constructed on a development site or within a planned development, all buildings shall reflect a consistent architectural style and create a cohesive visual relationship between the buildings.

(b) The following types of external building materials are prohibited: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished walls; exposed plywood or particle board; and non-plastered, exposed concrete masonry blocks. This provision applies to accessory buildings and structures, including signs.

(c) Buildings with all-metal siding shall not be permitted except in industrial zoning districts.

CHAPTER 3-2 GENERAL MEASUREMENTS AND EXCEPTIONS

Section 3-2-1. Height

(a) No building or structure shall be erected or altered to exceed the height limits established for the zoning district it is in, or any other provision of this ULDC, except as otherwise specifically provided by this ULDC.

(b) Except as may otherwise be required by Section 7-1-5., height limitations of this ULDC shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, utility poles, agricultural uses such as silos and windmills, and similar structures.

Section 3-2-2. Density

(a) No lot shall be developed with a number of dwelling units that exceeds the residential density for the zoning district in which the lot is located.

(b) Guest houses and caretaker residences, where allowed, shall not be counted towards density calculations.

Section 3-2-3. Lots

No lot shall hereafter be platted, established, or developed unless it meets or exceeds the minimum lot size for the zoning district in which the lot is located as established by this ULDC; provided, however, that where a zoning district or overlay district allows the reduction of lot size, the overall density requirements for the applicable zoning district or overlay district shall apply unless the context clearly indicates otherwise.

Section 3-2-4. Lot Width

No lot shall be platted, established, or developed that fails to meet the minimum lot width for the zoning district or overlay district in which the lot is located as established by this ULDC, except as otherwise specifically provided.

Section 3-2-5. Street Frontage

(a) No lot shall be platted, established, or developed that fails to maintain a minimum of 40 feet of street frontage on a public street, or on an approved private street; provided, however, that fee-simple lots for attached residential dwelling units may be platted to lot widths and with street frontages specified for such uses in this ULDC.

(b) The street frontage requirements of this ULDC shall not prevent a building, structure, or activity from being accessed through an access easement, so long as the lot on which it is located meets the minimum required street frontage.

Section 3-2-6. Yards and Building Setbacks

(a) No lot shall be developed, and no building or structure shall be erected or altered in a manner to have narrower or smaller rear yards, front yards, or side yards than specified for the zoning district or overlay district in which the property is located, or for the specific use if such regulations are established in this ULDC.

(b) Where this ULDC establishes a build-to line, no building or structure shall be erected or altered in a manner inconsistent with the build-to lines specified for the zoning district or overlay district in which the property is located, unless otherwise specifically provided in this ULDC.

(c) All setbacks are measured at a right angle (perpendicular) to the applicable reference line.

(d) All principal and accessory structures must be located at or behind the required zoning district setbacks, except when otherwise specifically stated in this ULDC.

Section 3-2-7. Building Coverage

No lot shall be developed, and no building or structure shall be erected or altered in a manner that exceeds the maximum building coverage or floor-area ratio specified for the zoning district or overlay district in which it is located, or for the use if specific regulations for such use are established by this ULDC.

Section 3-2-8. Impervious Surface Coverage

No lot shall be developed, and no building, structure, or improvement shall be erected, installed, or altered in a manner that exceeds the maximum impervious surface coverage specified for the zoning district or overlay district in which it is located, or for the use if specific regulations for such use are established by this ULDC.

Section 3-2-9. Landscaping or Open Space

(a) No lot shall be developed, and no building or structure shall be erected or altered in a manner to have less than the minimum percentage of landscaping or open space than specified for the zoning district or overlay district in which the property is located, or for the specific use if a such regulations are established by this ULDC, except as otherwise specifically provided in this ULDC.

(b) No lot shall be developed, and no building or structure shall be erected or altered in a manner that reduces the minimum required width of a landscape strip specified for the zoning district or overlay district in which the property is located, or for the specific use if such regulations are established by this ULDC, except as otherwise specifically provided in this ULDC.

Section 3-2-10. Buffers and Tree Protection Zones

(a) No lot shall be developed, and no building or structure shall be erected or altered in a manner to have narrower or smaller buffers than specified for the zoning district or overlay district in which the property is located, or for the specific use if such regulations are established by this ULDC, except as otherwise specifically provided in this ULDC. The application of buffer requirements established by this ULDC supersede any required yards.

(b) No part of a required buffer shall be included as a part of the buffer required for another lot, building, or use.

(c) No lot shall be developed, and no building or structure shall be erected or altered in a manner that encroaches on a required tree protection zone, unless otherwise specifically provided by this ULDC.

Section 3-2-11. Acquisition for Public Purpose

When a portion of a lot is acquired for a public purpose and such acquisition renders the lot with less than the required lot area, lot width, or not in compliance with other dimensional requirements of this ULDC, or where such remaining lot has an existing building or structure that does not meet required building setbacks of this ULDC, the provisions of this Article shall not be construed to prevent the development of the lot in accordance with requirements for nonconforming lots established in this ULDC; nor shall it be construed to prevent the continuation of the existing building or structure that otherwise conforms to the requirements of this ULDC..

ARTICLE 4 RESIDENTIAL ZONING DISTRICTS

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CHAPTER 4-1 R-I-A RESIDENTIAL DISTRICT

Section 4-1-1. Purpose and Intent

The R-I-A Residential District is established to provide areas of primarily low density single-family residential development along with other uses that are compatible with a residential environment such as recreational, educational, and religious facilities. This district is intended for a density not to exceed 2.18 dwelling units per acre.

Section 4-1-2. Permitted and Special Uses

(a) See Article 9 for permitted and special uses.

(b) See Chapter 9-3 for R-1-A District use standards.

Section 4-1-3. Dimensional Requirements

See Table 4-1: Dimensional Requirements for Residential Zoning Districts.

CHAPTER 4-2 R-I RESIDENTIAL DISTRICT

Section 4-2-1. Purpose and Intent

The R-I Residential District is established to provide areas of primarily low- to moderate-density single-family residential development along with other uses that are compatible with a residential environment such as recreational, educational, and religious facilities. This district is intended for a density not to exceed 4.35 dwelling units per acre.

Section 4-2-2. Permitted and Special Uses

(a) See Article 9 for permitted and special uses.

(b) See Chapter 9-3 for R-1 District use standards.

Section 4-2-3. Dimensional Requirements

See Table 4-1: Dimensional Requirements for Residential Zoning Districts.

CHAPTER 4-3 N-C NEIGHBORHOOD CONSERVATION DISTRICT

Section 4-3-1. Purpose and Intent

The N-C Neighborhood Conservation District is established to allow the transition of older residential areas to primarily low- to moderate-density single-family residential development, along with other uses that are compatible with a residential environment such as recreational, educational and religious facilities. This district is intended for a density not to exceed 4.35 dwelling units per acre.

Section 4-3-2. Permitted and Special Uses

(a) See Article 9 for permitted and special uses.

(b) See Chapter 9-3 for N-C District use standards.

Section 4-3-3. Dimensional Requirements

See Table 4-1: Dimensional Requirements for Residential Zoning Districts.

CHAPTER 4-4 R-II RESIDENTIAL DISTRICT

Section 4-4-1. Purpose and Intent

The R-II Residential District is established to provide for single-family, two-family and multi-family residential development, along with other uses that are compatible with a residential environment such as recreational, educational and religious facilities. This district is intended for a density not to exceed 12 dwelling units per acre.

Section 4-4-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 4-4-3. Dimensional Requirements

See Table 4-1: Dimensional Requirements for Residential Zoning Districts.

CHAPTER 4-5 R-O RESIDENTIAL AND OFFICE DISTRICT

Section 4-5-1. Purpose and Intent

The R-O Residential and Office District is established to encourage and assure a compatible mixture of residential, office, and commercial land uses. The district allows for greater flexibility of use for existing structures, encouraging their continued viability while permitting new mixed-use buildings and nonresidential development at scales compatible with residential neighborhoods. Special procedures for the review of building design and uses are recognized as essential for the establishment and maintenance of the character of this district, as outlined in Chapter 8-2.

Section 4-5-2. Permitted and Special Uses

(a) See Article 9 for permitted and special uses.

(b) See Chapter 9-3 for R-O District use standards.

Section 4-5-3. Dimensional Requirements

See Table 4-1: Dimensional Requirements for Residential Zoning Districts.

CHAPTER 4-6 RESIDENTIAL DISTRICT TABLES

Section 4-6-1. Residential Zoning District Dimensional Requirements

Table 4-1: Dimensional Requirements for Residential Zoning Districts

STANDARD	R-I-A	R-I	N-C	R-II	R-O
BUILDING AND SITE REQUIREMENTS					
Maximum residential density (dwelling units per acre)	2.18	4.35	4.35	12	12
Minimum lot size(square feet)	20,000	10,000	10,000	7,500	10,000
Minimum road frontage (feet)	40	40	40	40	40
Minimum lot width, all uses (feet)	100	75	60	60	75
Maximum building coverage (percent of lot area)	20%	35%	35%	35%	35%
Maximum impervious surface coverage (percent of lot area)	40%	50%	50%	60%	60%
Minimum landscaped open space for non-single-family residential use (if permitted)	20%	20%	20%	20%	20%
HEIGHT REQUIREMENTS					
Maximum height (feet)	40*	40*	40*	60	50
Maximum height (number of stories)	3	3	4	3	3
PRINCIPAL BUILDING SETBACKS AND BUFFERS					
Front setback (feet)	40	30*	30*	30	30
Side setback (feet)	15	10	10	10	10
Street side setback (feet)	20	15	15	15	15
Rear setback (feet)	25	20	20	20	20
Side or rear landscape buffer when any use other than single-family detached dwelling abuts an R-I-A, R-I, or N-C district (feet) **	-	-	-	20	20
Corps of Engineers property line (unless otherwise specified) (feet)	None	None	None	None	None
ACCESSORY BUILDING SETBACKS AND BUFFERS					
Front setback (feet)	-	-	-	-	-
Side or rear setback (feet)	10	10	10	10	10
Street side setback (feet)	20	15	15	15	15
Corps of Engineers property line (unless otherwise specified) (feet)	None	None	None	None	None
LANDSCAPE STRIPS					
Minimum landscape strip required along rights-of-way for any non-single-family residential use (width in feet)	10	10	10	10	10

STANDARD	R-I-A	R-I	N-C	R-II	R-O
Minimum landscape strip required along rights-of-way of existing streets for any residential subdivision involving the creation of a new street (width in feet)	20	20	20	20	20

Table Notes:
A "-" in a cell = Not permitted or not applicable.
*See Section 9-3-1 for alternative development standards which may apply.
**Required zoning buffers may be reduced in width with installation of a structural buffer as provided in Chapter 13-1.

ARTICLE 5 NONRESIDENTIAL ZONING DISTRICTS

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CHAPTER 5-1 O-I OFFICE AND INSTITUTIONAL DISTRICT

Section 5-1-1. Purpose and Intent

The Office and Institutional (O-I) District is intended for a variety of office and public and institutional uses, while also allowing residential uses on a limited basis. The district is primarily intended to be located along arterial streets but may also be in areas dominated by institutions that involve a range of uses, such as a college or university.

Section 5-1-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-1-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-2 N-B NEIGHBORHOOD BUSINESS DISTRICT

Section 5-2-1. Purpose and Intent

The Neighborhood Business (N-B) District is intended to form nodes of development serving the residents within a 1 to 2-mile radius. Such areas are typically made up of small-scale commercial uses, services, and offices, while also allowing residential uses on a limited basis.

This district excludes uses that rely on passer-by traffic from highways. The overall character of neighborhood business districts is such that access by both vehicles and pedestrians is possible.

Section 5-2-2. Permitted and Special Uses

(a) See Article 9 for permitted and special uses.

(b) See Chapter 9-3 for N-B District use standards.

Section 5-2-3. Dimensional Requirements

See Section 5-8-1.

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CHAPTER 5-3 C-B CENTRAL BUSINESS DISTRICT

Section 5-3-1. Purpose and Intent

The Central Business (C-B) District is intended for the most intensive use of commercial, retail, services and offices, providing a compact, pedestrian-friendly area of economic activity in the city.

This district consists of buildings with high lot coverage, no building setbacks, and minimal off-street parking. Permitted uses shall contribute to a pedestrian-friendly central business district. Automobile-related facilities and services are not appropriate to the character of the district.

Section 5-3-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-3-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-4 R-B REGIONAL BUSINESS DISTRICT

Section 5-4-1. Purpose and Intent

The Regional Business (R-B) District is intended to provide for the grouping of uses for the convenience of consumers and the efficient provision of parking to minimize the impact of traffic on the street network. The district shall minimize the adverse impacts of loading, storage, and building service areas on surrounding properties and public streets through proper screening and buffering.

This district is intended for those business and commercial uses which benefit from direct access to highways.

Section 5-4-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-4-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-5 G-B GENERAL BUSINESS DISTRICT

Section 5-5-1. Purpose and Intent

The General Business (G-B) District is intended for a wide range of office, retail, and commercial activities and services. Uses within the district may have more off-site impacts on residential areas and other adjoining land uses than neighborhood commercial areas and typically serves a larger number of patrons.

This district is intended for those business and commercial uses which benefit from direct access to highways.

Section 5-5-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-5-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-6 L-I LIGHT INDUSTRIAL DISTRICT

Section 5-6-1. Purpose and Intent

The Light Industrial (L-I) District is intended to provide areas where light manufacturing uses may be located. The industries located in this district are characterized as lower in intensity, cleaner, and generally more compatible when located adjacent to residential or commercial areas than heavy industrial uses. Such industries are capable of operation in a manner which controls the external effects of the manufacturing process through prevention or other mitigation measures. Industrial activities are typically conducted indoors, though limited outdoor activity may occur.

Section 5-6-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-6-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-7 H-I HEAVY INDUSTRIAL DISTRICT

Section 5-7-1. Purpose and Intent

The Heavy Industrial (H-I) District is intended for the location of heavy manufacturing uses with restrictions on off-site impacts such as noxious odors, dust, fumes, gas, noise, and vibration. Some uses may be objectionable due to the emission of noise, vibration, smoke, dust, gas, fumes, odors, or radiation and that may create fire or explosion hazards or other objectionable conditions.

Section 5-7-2. Permitted and Special Uses

See Article 9 for permitted and special uses.

Section 5-7-3. Dimensional Requirements

See Section 5-8-1.

CHAPTER 5-8 NONRESIDENTIAL DISTRICT TABLES

Section 5-8-1. Nonresidential Zoning District Dimensional Requirements

Table 5-1: Dimensional Requirements for Nonresidential Zoning Districts

Standard	O-I	N-B	C-B	R-B	G-B	L-I	H-I
BUILDING AND SITE REQUIREMENTS							
Minimum site area to rezone to this district (square feet except as shown)	15,000	15,000	None	4 acres	15,000	15,000	15,000
Minimum lot size, all permitted uses (square feet)	15,000	15,000	None	15,000	15,000	15,000	15,000
Maximum building coverage (percent of lot area)	50%	50%	None	50%	60%	70%	70%
Maximum impervious surface coverage (percent of lot area)	75%	75%	None	80%	80%	85%	85%
Minimum landscaped open space for residential uses (percent of lot area)	20%	20%	None	20%	20%	15%	15%
Minimum road frontage (feet)	40	40	40	40	40	40	40
Minimum lot width, all uses (feet)	75	75	None	100	100	100	100
Maximum residential density for residential uses (dwellings per acre)	12.0	12.0	18.0*	-	-	-	-
HEIGHT REQUIREMENTS							
Maximum height (feet)	60	60	120	75	75	75	120
Maximum height (number of stories)	4	4	8	5	5	5	5
BUILDING SETBACKS AND BUFFERS							
Front setback, all streets, minimum (feet)	30	30	None	30	30	30	30
Side or rear setback, minimum (feet)	None	None	None	None	None	None	None
Street side setback, minimum (feet)	15	15	None	15	15	15	15
Side or rear setback abutting railroad or alley, minimum (feet)	15	15	None	15	None	None	None
Side or rear landscaped buffer and building setback when abutting R-I-A, R-I, N-C, R-II or R-O districts** (feet)	25	25	10	25	35	50	100
Frontage landscape strip width (feet)	10	10	None	10	10	10	10
Corps of Engineers property line (unless otherwise specified) (feet)	None	None	None	None	None	None	None

Standard	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Table Notes: A "-" in a cell = Not Permitted *Additional density may be allowed by the Governing Body with approval of a Special Use. **Required zoning buffers may be reduced in width with installation of a structural buffer as provided in Chapter 13-1.							

ARTICLE 6 FLEXIBLE ZONING DISTRICTS

CHAPTER 6-1 PUD PLANNED UNIT DEVELOPMENT.....48

CHAPTER 6-1 PUD PLANNED UNIT DEVELOPMENT

Section 6-1-1. Purpose and Intent Generally

This zoning district is intended to provide flexibility in the mixture and arrangement of land uses, allowing unique and innovative land developments that meet the objectives of the City's comprehensive plan. The PUD zoning district provides for planned unit developments and mixed-use developments but provides separate design specifications for both. Development in this zoning district is characterized by a unified site design for the entire development.

This district is a "floating" (initially unmapped) zone, to be established upon successful application by the property owner or applicant and approval by the Governing Body; provided, however, that those properties zoned P-R-D, P-O-D, P-C-D, or P-I-D Districts prior to July 15, 2005 may be designated on the official zoning map as PUD. Such properties shall be subject to all regulations established for the district, development, or site at the time the property received rezoning or development approval. Any changes to such development approvals shall be subject to consideration under the terms of this ULDC.

This zoning district is also established to meet the following objectives:

(a) Encourage and allow the development of tracts of land as planned neighborhoods or communities according to designs that coordinate building forms that are interrelated and architecturally harmonious.

(b) Encourage and allow more unique, flexible, creative, imaginative arrangements and mixes of land use in site planning and development than are permitted through zoning district requirements established in this ULDC.

(c) Encourage a broader mix of residential housing types and provide for unique dwelling arrangements not typically provided in conventional subdivisions.

(d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments, provide amenities, and provide where needed the civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community.

(e) Provide for the efficient use of land by encouraging smaller networks of utilities and streets which may lower development and housing costs.

(f) Provide a character of development compatible with surrounding residential areas.

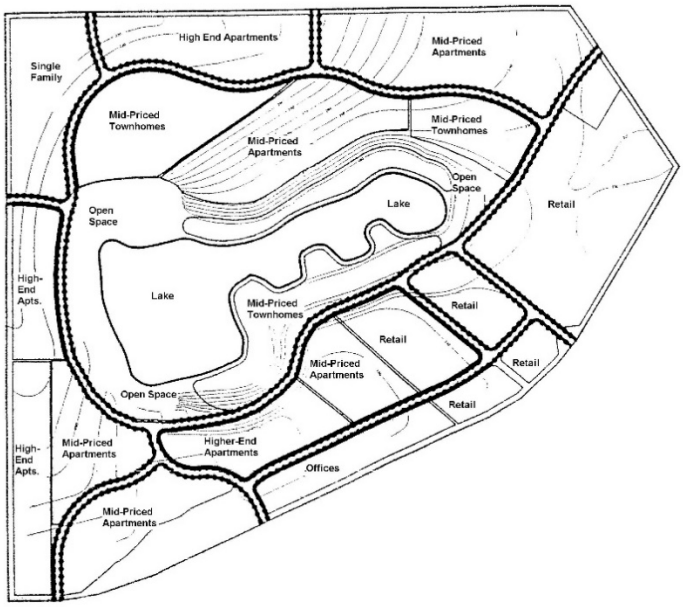
(g) Ensure that applications for PUD zoning have enough information to thoroughly analyze the merits of the proposal.

This zoning district is not intended to be used as an alternative to obtaining variances for developments unable to comply with other zoning district provisions. Applications for rezoning to the PUD district may be rejected by the Director if the development proposal does not match clearly the purposes and intentions of this Article, or if another remedy is available and would be more appropriate, such as an application for variance. The PUD zoning district is not intended to allow for the intrusion of incompatible land uses into single-family neighborhoods that create negative land use impacts.

Generally, this district characterizes developments as two types: planned unit development and mixed-use development.

Section 6-1-2. Intentions for Residential Planned Unit Developments

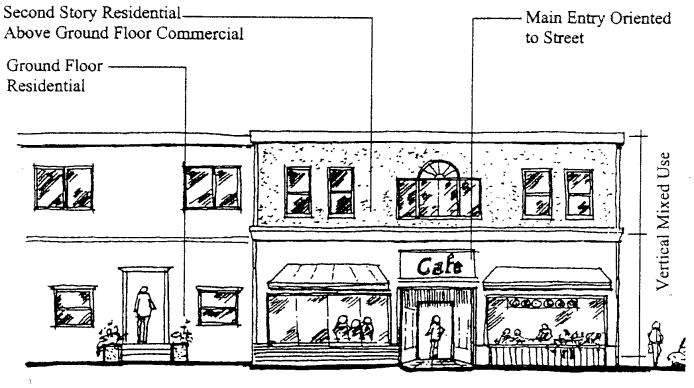
Residential planned unit developments are intended to provide a variety of dwelling types, including some combination of detached single-family (fee-simple or condominium), duplex, triplex, quadraplex, townhouse, and a wide range of multi-family dwellings. Residential planned unit developments are not exclusively residential and may contain a mix of building types and land uses, provided that nonresidential uses do not exceed 20% of the total land area Residential planned unit developments may feature clustered buildings, common open space, and unconventional or unique site designs.



Depending on size, a residential planned unit development may include offices, retail and service establishments, and civic and institutional uses subject to the recommendations of Section 6-1-6.

Section 6-1-3. Intentions for Mixed-Use Planned Unit Developments

Mixed-Use Planned Unit Developments include development of a single building or single parcel to contain two or more of the following types of uses: residential, office, institutional, or commercial. Mixed uses may be combined vertically within the same building or placed side by side on the same parcel provided they are planned as a unified and complementary whole and functionally integrated to make use of shared vehicular and pedestrian access and parking areas.



The term mixed use development specifically includes live-work units and other mixtures of residential use with office, retail, service, or institutional uses. Mixed-use developments have a pedestrian friendly character (e.g., with a storefront or village design) and provide a connected network of streets, pathways, and sidewalks.

Section 6-1-4. Permitted Uses

Within Planned Unit Developments a variety of land uses may be permitted if such uses can be shown to provide an orderly relation and function to other uses in the development and to existing land uses on-site and off-site.

The permitted use or uses of property located in a PUD shall be determined at the time the development is approved via the rezoning process. Unless otherwise specifically noted in the Governing Body's approval of the PUD and the

plan for development, the property within the PUD is limited to those uses requested as part of the application and which are approved by the Governing Body.

Section 6-1-5. Relationship to Specific Use Standards

An application for rezoning that includes a use for which this ULDC specifies use standards shall not be required to demonstrate conformance with the specific use standards of Article 9; provided, however, that the Governing Body may condition uses in a manner consistent with such standards as it deems appropriate. Applications for a PUD which include uses with specific use standards as outlined in Article 9 should address the consistency of the development proposal with any use standards and provide the Director with evidence of why such standards are not necessary within the proposed development.

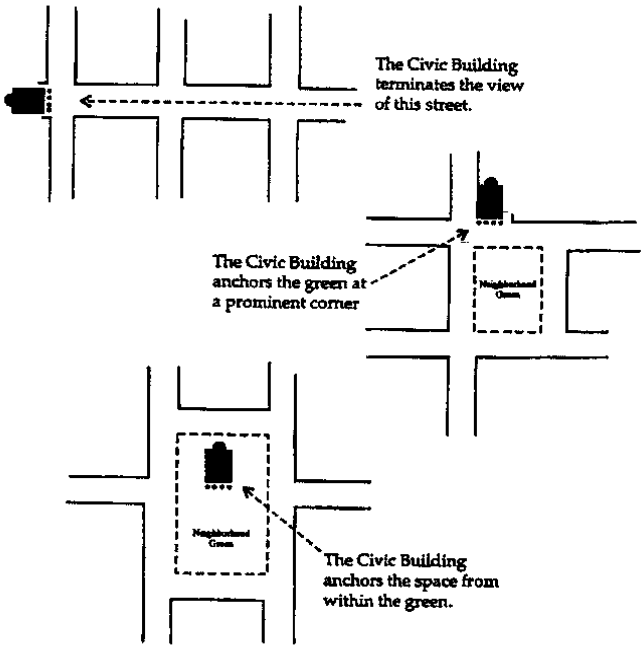
Section 6-1-6. Guidelines for Mixing Land Uses

This Section provides guidelines and recommendations which may be used to guide applicants, staff, the Planning and Appeals Board, and the Governing Body in proposing, considering, and acting upon the merits of development proposals. This Section shall not be construed to prevent an applicant from proposing a development inconsistent with the provisions of this Section, although due adherence to these guidelines and recommendations may, in the discretion of the Governing Body, be imposed through conditions of zoning and development plan approval.

(a) Residential developments. Where predominantly single-family residential uses are proposed, the gross density may not exceed the recommendations of the comprehensive plan as described for the land use classification in which the property is located as shown on the city's future land use plan map, unless otherwise permitted by the Governing Body.

(b) Different dwelling types. Developments that include residential uses should provide for more than just one type of dwelling, though an even or proportional distribution among more than one dwelling type is not required. Where detached, single-family dwellings are included, the total number of multi-family dwelling units may not exceed 25% of the total density, unless otherwise permitted by the Governing Body.

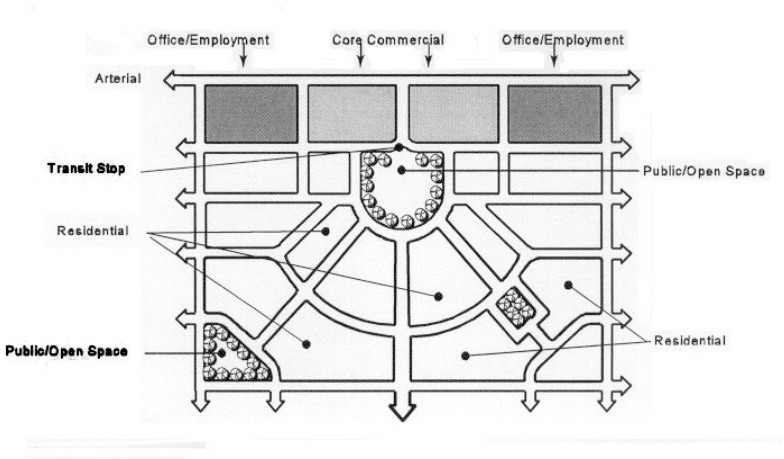
(c) Civic and institutional uses. Sites for churches, schools, community or club buildings, and similar public or semi-public facilities are encouraged to be provided, where appropriate. Uses such as schools, churches, and other institutions should be part of an integrated site design and located and designed to minimize negative impacts.



(d) Office and commercial uses in predominantly residential developments. Within residential planned unit developments, proposed commercial and offices uses should be located with consideration to other land uses within and outside of the development. Such uses must be scaled and oriented so that they primarily serve the occupants of the planned unit development. Such uses, where provided, should be part of an integrated site design and located and designed to

minimize negative impacts. In residential planned unit developments, the amount of land in the development devoted to commercial and office uses may not exceed 20% of the total land area, unless otherwise permitted by the Governing Body.

(e) Commercial uses. PUD districts allow for commercial uses that are compatible with pedestrian-scale development, except for vehicular sales or service establishments, outdoor storage, or other vehicular-oriented commercial uses, including drive-through facilities, that conflict with a pedestrian-friendly development pattern.



(f) Industrial uses. Industrial uses are not typically considered to be appropriate for inclusion within planned unit developments or mixed-use developments; however, such uses may be considered appropriate in developments greater than 20 acres in areas where living and working areas need to be close to one another. If industrial uses are proposed, they should avoid nuisances on residential development within or adjacent to the PUD through the inclusion of buffers as specified in Chapter 13-1.

(g) Open space. Planned Unit Developments should be designed around and connected to any open space corridors or networks that exist or are planned. Developments should devote at least 20% of the total land area to natural areas, conservation areas, open spaces, and active or passive recreational areas, or some combination thereof.

(h) Mixed uses. Mixed use planned unit developments should consider the following recommended mix of residential, office/institutional, and neighborhood retail, measured in terms of land area devoted to each use: Office/institutional – 40%; neighborhood retail – 30%; residential – 30%. In such cases, predominantly residential development, or other developments inconsistent with the recommended land use mix, may be considered inappropriate and inconsistent with the future land use plan map.

Section 6-1-7. Minimum Acreage or Development Size

When a Planned Unit Development is proposed to include residential uses only, the minimum acreage to rezone or develop is 1 acre to ensure prospects for mixture of different types of dwellings; otherwise, there is no established minimum acreage to rezone to this district.

Section 6-1-8. Dimensional Requirements

To ensure maximum flexibility, there are no requirements for minimum lot size, minimum lot width, lot coverage, yards and building setbacks, or height. Proposals for development may not deviate to any significant degree from the goals, policies, and objectives specified in the comprehensive plan.

A detailed development plan shall be submitted by the applicant for rezoning to this district. Minimum dimensional requirements for PUD zoning districts are established per the development plan, and such requirements are intended to allow for multiple uses within the development. Standards proposed by the developer are legally binding on the development if approved, unless otherwise specified by the Governing Body.

Section 6-1-9. Additional Application Requirements

The requirements for rezoning applications are specified in Chapter 18-2 of this ULDC, which includes additional application requirements for PUD rezoning and development approval.

Section 6-1-10. Approval Procedures

The process and criteria for considering rezoning applications are specified in Chapter 18-2 of this ULDC, including additional procedural requirements for PUD rezoning and development approval.

ARTICLE 7 OVERLAY DISTRICTS

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CHAPTER 7-1 AIRPORT OVERLAY DISTRICT

Section 7-1-1. Purpose and Intent

The purpose of the Airport Overlay District is to impose height and use restrictions necessary to ensure that structures and natural objects will not impair flight safety or decrease the operational capability of Lee Gilmer Memorial Airport. The provisions of this section are overlaid upon and imposed in addition to said underlying zoning regulations and are intended to provide greater restrictions than the zoning districts with regard to heights and aircraft navigation. In any case where the standards and requirements of this overlay conflict with those of the underlying zoning district, the standards and requirements of this overlay govern.

Section 7-1-2. Definitions

The following terms apply in the enforcement and interpretation of this Chapter, unless specifically stated otherwise:

Airport: Lee Gilmer Memorial Airport.

Airport Elevation: 1,276 feet above mean sea level.

Airport Overlay Zones: Areas located on the ground that are defined in their boundaries by the Airport Surfaces overhead, including:

(a) **Primary Surface Zone**: That area on the ground that coincides with the Primary Surface for each runway.

(b) **Approach Zone**: That area on the ground directly beneath an Approach Surface.

(c) **Horizontal Zone**: That area on the ground directly beneath the Horizontal Surface.

(d) **Conical Zone**: That area on the ground directly beneath the Conical Surface.

(e) **Transitional Zone**: That area on the ground directly beneath the Transitional Surfaces.

(f) **Navigable Airspace Zone**: That area on the ground within 6 nautical miles of the Airport Reference Point, and not included in any of the other Airport Zones.

Airport Reference Point: A horizontal reference point calculated in accordance with Federal Aviation Administration Advisory Circular 150/5300-13B. (For the airport configuration on October 5, 2018, the position is 34°16’21.46”N, 83°49’48.80”E.)

Airport Surfaces: Imaginary planes that define the lower limit of aircraft operational areas around an airport, including:

(a) **Primary Surface**: A surface longitudinally centered on a runway and extending 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(b) **Approach Surface**: A surface centered on the extended runway centerline, extending outward and upward from the end of the primary surface at a slope designated by the Federal Aviation Administration.

(c) **Horizontal Surface**: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.

(d) **Conical Surface**: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(e) **Transitional Surfaces**: These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Airport Zone Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Hazard to Air Navigation: An obstruction determined to have substantial adverse effect on the same and efficient utilization of the navigable airspace.

Height Datum: The vertical distance above mean sea level elevation.

Obstruction (or Obstruction to Air Navigation): Any structure, growth or other object, including a mobile object, which extends above an Airport Surface as defined in this Section.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Runway Designations: Runways are numbered by the compass heading of approach for landing aircraft. At Lee Gilmer Airport, runways are: 5, at an approach heading of 50°; 23, at an approach heading of 230°; 11, at an approach heading of 110°; and, 29, at an approach heading of 290°.

Tree: A self-supporting woody plant that normally reaches a mature height of at least 15 feet.

Section 7-1-3. Airport Zones Established

To carry out the provisions of this Chapter 9-7-1, there are hereby created and established certain zones within the Airport Overlay District which include all of the land lying beneath the primary surfaces, approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Lee Gilmer Memorial Airport. An area located in more than one of the following zones shall be subject to the zone with the more restrictive height limitation. The airport zones are:

(a) Primary Zone. For runways 11 and 29, the primary surface is centered on the runway, 250 feet wide, and extends 200 feet beyond each end of the runway. For runways 5 and 23, the primary surface is centered on the runway, 1,000 feet wide, and extends 200 feet beyond each end of the runway.

(b) Approach Zone—Runways 11 and 29. The inner edge of this approach zone coincides with the width of the primary surface which is 250 feet wide. The approach zone expands outward uniformly to a width of 850 feet at a horizontal distance of 3,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(c) Approach Zone—Runway 23. The inner edge of this approach zone coincides with the width of the primary surface which is 1,000 feet wide. The approach zone expands outward uniformly to a width of 2,530 feet at a horizontal distance 5,100 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(d) Approach Zone—Runway 5. The inner edge of this approach zone coincides with the width of the primary surface which is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,250 feet at a horizontal distance of 7,500 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(e) Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

(f) Horizontal Zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

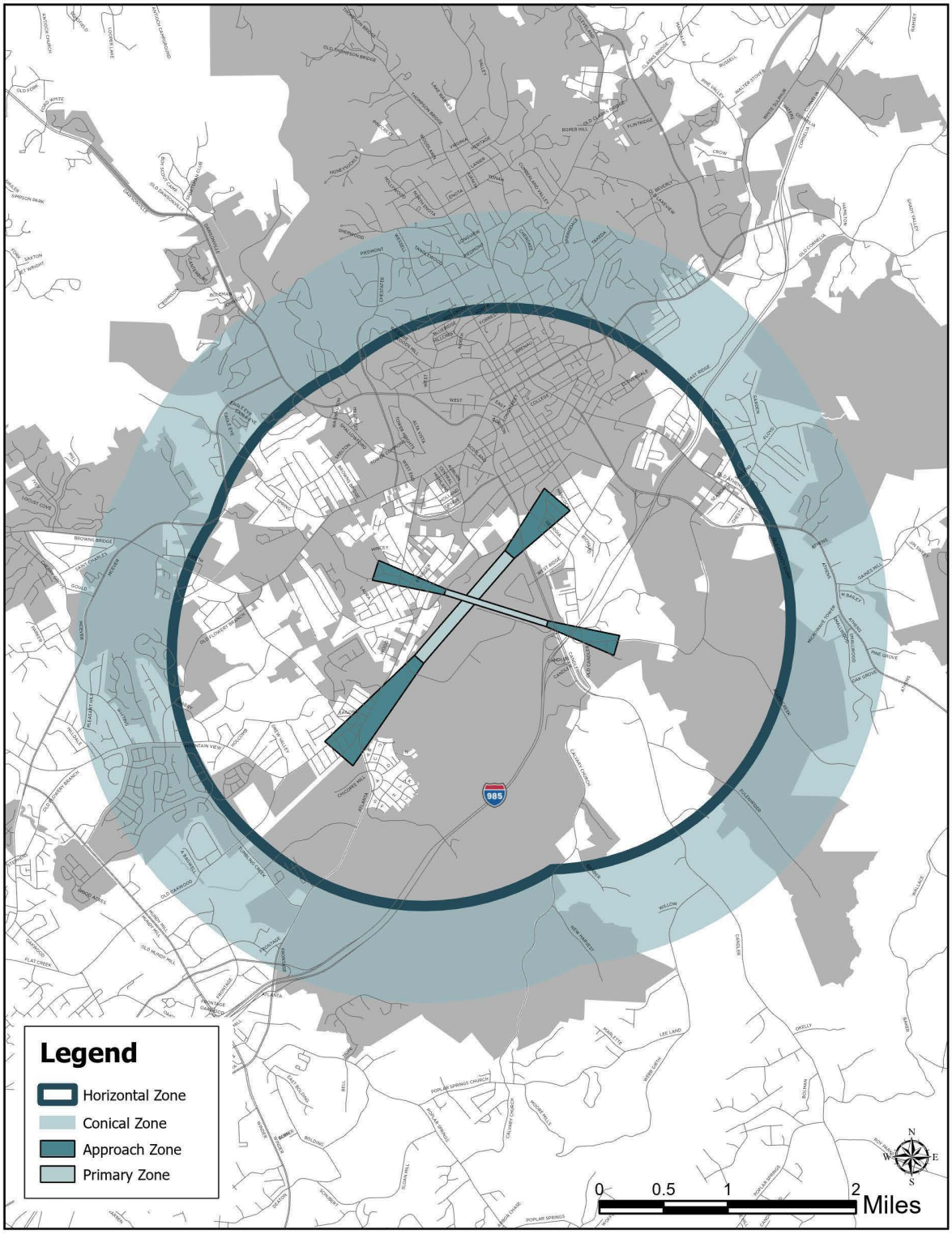
(g) Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.

Section 7-1-4. Airport Overlay District Map

The various airport zones established by this Chapter are illustrated on the Approach Plan and Profile of Lee Gilmer Memorial Airport, prepared by Lead Edge Design Group and approved by the FAA on October 5, 2018, which is hereby adopted and made a part of this Chapter. The current approved Approach Plan and Profile will be superseded by any subsequent FAA approved change to the document.

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Airport Overlay Zone



Section 7-1-5. Airport Zone Height Limitations

No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any airport zone to a height in excess of the maximum height established for such zone, as shown in Table 7-1: Height Limitations by Airport Zone; provided, however, that nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 50 feet above the surface of land.

Table 7-1: Height Limitations by Airport Zone

Airport Zone	Height Limitation
Approach Zone—Runways 11 and 29	Beginning at a maximum height limitation of 0 feet at the Primary Surface, the maximum height increases by 1 foot for every 20 feet of horizontal distance, increasing to a maximum of 150 feet at a distance of 3,000 feet from the Primary Surface.
Approach Zone – Runway 5	Beginning at a maximum height limitation of 0 feet at the Primary Surface, the maximum height increases by 1 foot for every 50 feet of horizontal distance, increasing to a maximum of 150 feet at a distance of 7,500 feet from the Primary Surface then continuing from the Conical Surface 1 foot for every 40 feet or horizontal distance increasing to a maximum of 1,251 feet at a distance of 50,000 feet from the Primary Surface.
Approach Zone—Runway 23	Beginning at a maximum height limitation of 0 feet at the Primary Surface, the maximum height increases by 1 foot for every 34 feet of horizontal distance, increasing to a maximum of 150 feet at a distance of 5,100 feet from the Primary Surface.
Transitional Zones	Maximum height increases 1 foot for each 7 feet outward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
Horizontal Zone	Maximum height is established at 150 feet above the airport elevation.
Conical Zone	Maximum height increases 1 for each 20 feet of horizontal distance, beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
Navigable Airspace Zone	No structure or tree may exceed a height of 200 feet above the airport elevation (1,277 feet plus 200 feet equals 1,477 feet) within 3 nautical miles of the airport reference point. Between 3 and 6 nautical miles, maximum height increases 100 feet per nautical mile to a maximum height limitation of 500 feet above the airport reference point. (1,277 feet plus 500 feet equals 1,777 feet).

Section 7-1-6. Use Restriction

No use shall be located within any Airport Zone that would create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird or wildlife strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 7-1-7. Obstructions

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become an obstruction to air navigation.

Section 7-1-8. Marking and Lighting

The owner of any existing nonconforming structure or tree within an Airport Zone must permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City.

Section 7-1-9. Nonconforming Uses Abandoned or Destroyed

Whenever the Public Works Director determines that a nonconforming tree or structure has been abandoned or more than 50% torn down, physically deteriorated, or decayed, such tree or structure shall be removed or modified to the extent necessary to comply with the applicable height limit.

Section 7-1-10. Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this section, may apply to the Planning and Appeals Board for a variance from such regulations.

Section 7-1-11. Staff Review of Application for Variance

Variance applications pursuant to this Chapter shall be reviewed by the Director of Public Works and the Airport Manager, and their response or recommendation must be received prior to action on any such variance.

Section 7-1-12. Findings Required to Support Variances

A variance may be allowed only where it is duly found that the requirements of the variance procedures and standards contained in Chapter 18-6 of this Ordinance are met; and relief granted will not create an obstruction to air navigation as defined by this Chapter or as determined by the Federal Aviation Administration.

Section 7-1-13. Marking and Lighting a Condition of Variance Approval

Any variance granted shall be conditioned to require the owner of the structure or tree in question to install, at the owner's expense, such markings and lights as may be necessary, and to permit the City, at its own expense, to operate and maintain the necessary markings and lights.

CHAPTER 7-2 GATEWAY CORRIDOR OVERLAY DISTRICT

Section 7-2-1. Purpose and Intent

The perceived quality of new growth and development is an important element of community character and livability. An important element of quality of growth is the recognition of the importance of community "gateways." Gateways refer to key points of entry into a community. In the case of Gainesville, there are several gateway corridors that are important both from a functional transportation and a symbolic perspective.

This Chapter 7-2 establishes provisions to ensure that the design quality of new development in the city's identified gateway corridors are held to high standards, as applied via the site and architectural design review processes established in this Unified Land Development Code.

Section 7-2-2. Boundaries and Map

(a) The boundaries of the Gateway Corridor Overlay shall be as shown on the Official Zoning Map, and which may be amended from time to time in accordance with the procedures established in this Unified Land Development Code.

(b) The Gateway Corridor Overlay shall apply to all those major roadways entering the city, except for those corridors that are fully included within the Midland Overlay District.

(c) The Gateway Corridor Overlay shall include all properties fronting on a gateway corridor as defined in Title 9Section 7-2-2(b), above.

Section 7-2-3. Applicability of Overlay Provisions

(a) This overlay district is supplemental to the underlying zoning district classifications established within this ULDC. The provisions of this section are overlaid upon and imposed in addition to said underlying zoning regulations and other City of Gainesville ordinances.

(b) In any case where the standards and requirements of this overlay conflict with those of the underlying zoning district, the site and architectural requirements of Article 8, or any subdivision regulations, the standards and requirements of this overlay govern.

Section 7-2-4. Uses

All uses permitted by the underlying zoning district shall be similarly permitted within the Gateway Corridor Overlay, including any use standards of Article 9.

Section 7-2-5. Overlay District Use Standards

The following standards apply to all properties within the Gateway Corridor Overlay.

(a) Fuel Sales.

(1) In addition to the standards of Section 9-7-12(a), fuel pumps and canopies shall be located to the side or rear of the property and cannot be located between a building and the street.

Section 7-2-6. Dimensional Requirements

This overlay does not establish dimensional requirements, except that lots 20 acres or larger zoned for nonresidential use shall require special use approval by the Governing Body to further subdivide. The following standards will be used in deciding whether to grant special use approval to subdivide the lot, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal.

(a) Minimum subdivided lot size shall be 2 acres.

(b) Maximum impervious surface coverage must not exceed 75% of the subdivided lot.

(c) Minimum landscaped open space must be a minimum of 20% of the subdivided lot.

(d) Access may be limited to an internal access easement within the property, prior to any subdividing, to facilitate the movement of motor vehicles across the property. New driveways on existing public rights-of-way will require review and approval by the Department of Public Works.

(e) Unless otherwise stated, uses shall be subject to the applicable dimensional requirements for the underlying zoning district in which said uses are located.

Section 7-2-7. Site and Architectural Design Standards

In addition to the requirements of Article 8, the following standards apply to all properties within the Gateway Corridor Overlay.

(a) Site Design Standards.

(1) Stormwater detention ponds or areas, when necessary, shall be located to the rear or side of buildings, or underground. The Director may approve alternative locations when provided evidence that such location is unreasonable due to topographic conditions. All above ground stormwater detention ponds shall have the appearance of a landscape feature.

(2) Parking shall be located to the side or rear of the principal building, unless for reasons of topography this is unreasonable.

(3) Fences and walls visible from the right-of-way shall be faced with brick or stone masonry or shall be architecturally compatible with the primary building in terms of design, style, and color.

(b) Architectural Design Standards.

(1) Front facades and other facades visible from a public right-of-way shall be comprised of at least 50% brick, stone, or masonry materials.

i. Split-face masonry shall be limited to a maximum of 20% of any such facade.

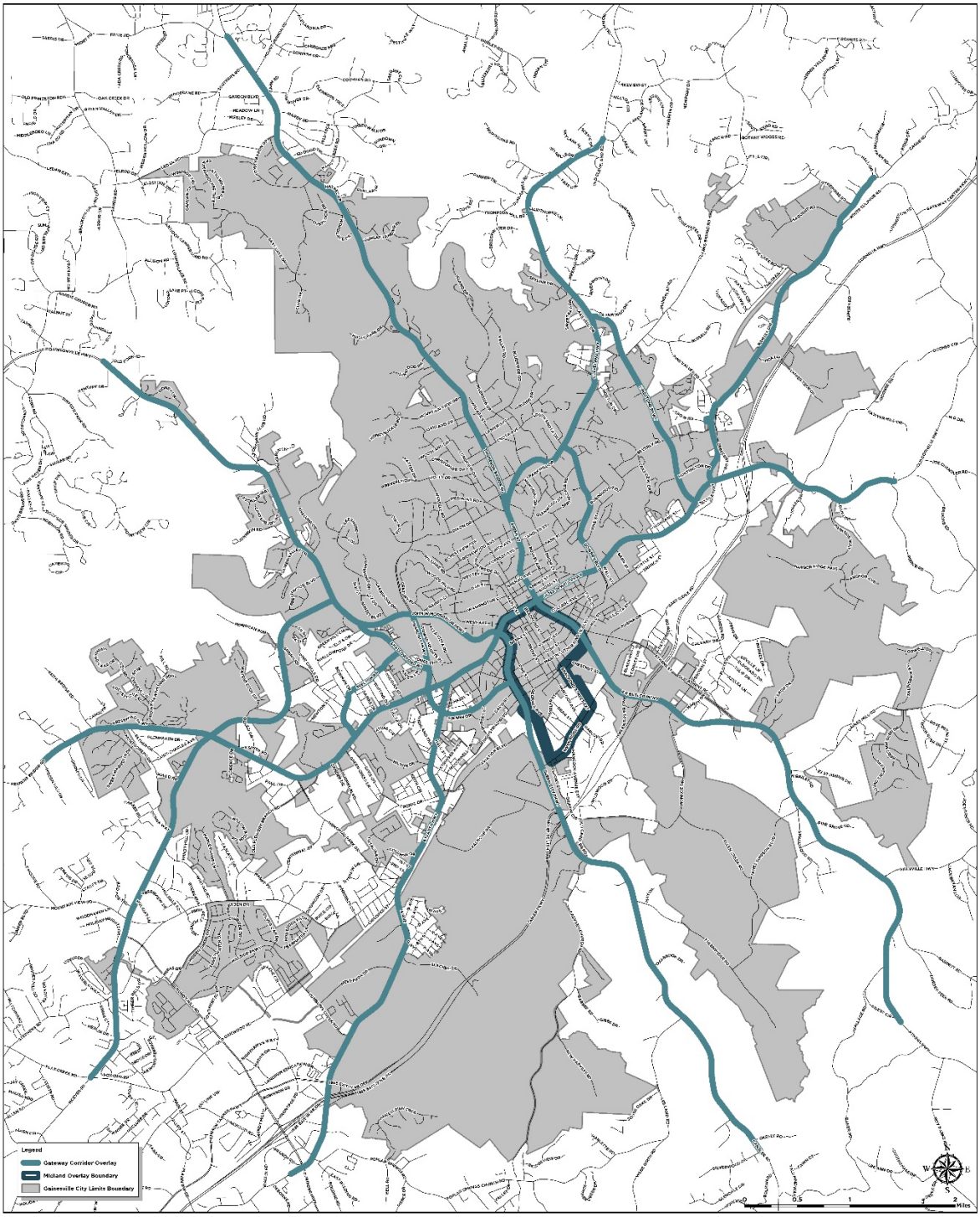
ii. Exposed concrete block is prohibited.

(2) Building facades of greater than 100 feet in length shall include modulation to break up facades in accordance with Section 8-4-9.

(3) Metal or tin roofs are not permitted except for standing seam metal with a reflectance equal to or less than that of the siding material.

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GATEWAY CORRIDOR OVERLAY



CHAPTER 7-3 MIDLAND OVERLAY DISTRICT

Section 7-3-1. Purpose and Intent

(a) The purpose of the Midland Overlay District is to protect the health, safety, and general welfare of the public and promote economic prosperity in Gainesville Midland in a manner consistent with the City's Comprehensive Plan.

(b) The intent of the overlay is to set higher standards for the appearance and functionality of the land uses, as applied via the site and architectural design review processes established in Article 8 of this Unified Land Development Code. It is also intended to encourage mixed use development and the creation of more housing, employment, and recreational opportunities in Midland.

Section 7-3-2. Boundaries and Map

The Midland Overlay District is hereby designated and shall consist of the land areas further delineated and defined on the Official Zoning Map, and which may be amended from time to time in accordance with the procedures of this Unified Land Development Code. Also included is a 200-foot buffer surrounding the Midland boundaries where the requirements of this Overlay apply. Properties located partially within the 200-buffer are considered entirely within the overlay and are subject to the Midtown Overlay District standards.

Section 7-3-3. Applicability of Overlay Provisions

(a) The Midland Overlay District is supplemental to the underlying zoning district classifications and any locally designated historic landmark or district established in this ULDC. The provisions of this overlay apply to all applications for zoning matters, land disturbance permits, plat approval, and building permits for all property and rights-of-way within the boundaries of the Midland Overlay, except for locally designated historic landmarks and districts which must comply with Design Guidelines for that historic landmark or district. All plan reviews, plat approval, and permits for parcels located within this overlay shall meet all the requirements of the base zoning district in which it is located as well as the requirements of the overlay district applicable to the parcel.

(b) In any case where the standards and requirements of the overlay conflict with those of the base zoning district, the standards and requirements of the overlay govern.

Section 7-3-4. Administrative Variances

Administrative variances are governed by Chapter 20-3 of this ULDC.

Section 7-3-5. Uses

(a) All uses permitted by right or as Special Uses within the underlying zoning district, including any use standards of Article 9, shall be similarly permitted within the Midland Overlay, except the following uses shall not be permitted on any property within the Midland overlay zone:

(1) Adult entertainment establishments.

(2) Alternative financial services.

(3) Animal care, indoor or outdoor.

(4) Car washes.

(5) Dollar-type stores or thrift stores.

(6) Community donation boxes.

(7) Fuel sales, when located on lots less than 2 acres in total area.

(8) Group homes, homeless shelters, rooming house or crisis centers.

(9) Hookah, E-cigarette, and/or Vapor lounge/bars.

(10) Ice vending machines, commercial.

(11) Impound lots.

(12) Industrial uses causing the emission of noise, vibration, smoke, dust, gas, fumes and odors perceptible to normal human senses.

(13) Industrial uses with outdoor storage.

(14) Jail/correctional facility.

(15) Junk or salvage yards.

(16) Laundry and dry-cleaning facilities.

(17) Liquor stores.

(18) Marine, boat or dock sales, service or repair stores.

(19) Massage parlors.

(20) Mini-warehouses including climate-controlled self-service storage facilities.

(21) Motels or extended stay lodging.

(22) Motor vehicle sales or service.

(23) Pawn shops.

(24) Psychics, fortune tellers.

(25) Retail sales of alternative nicotine products.

(26) Sanitation uses, including the storage of trash cans, dumpsters and porta potties.

(27) Sawmills.

(28) Tattoo parlors or body art studios.

(29) Taxi-cab or limousine services.

(30) Tobacco or vaping stores.

(31) Truck stops.

(32) Truck or trailer yards

(33) Truck or trailer rental

(34) Vehicle emission testing facility.

(35) Vehicle sales or rental.

(36) Vehicle service and repair, minor or major.

(37) Wireless telecommunication facility or cell towers excluding co-location.

(38) Wrecked motor vehicle compound.

(b) Single-family dwellings (detached and attached) and two-family dwellings and loft dwellings are permitted by right in any nonresidential district in the overlay zone provided that such uses may not exceed a density of 18 dwelling units per acre, unless otherwise approved as part of a Planned Unit Development.

Section 7-3-6. Dimensional Requirements

The following standards apply to all properties within the Midland Overlay:

(a) Minimum Open Space: 15% of gross acreage of any tract that is 2 acres or larger before subdivision. Buffers may be included in the open space at the discretion of the Director.

(b) Maximum Impervious Cover: 75% of parcel; not including portions of the parcel that are in floodplain or wetlands.

(c) Maximum Building Height: 85 feet.

(d) Maximum Front Yard Setback: 30 feet.

(e) Minimum Front Yard Setback: 5 feet from the back of the required sidewalk.

Section 7-3-7. Site and Architectural Design Standards

The following standards apply to all properties within the Midland Overlay.

(a) Site Design Standards.

(1) Parking areas shall be located to the side or rear of the primary structure.

(2) On-site detention or retention areas shall not be located adjacent to a public street unless this is unreasonable due to the topography of the site. All above ground stormwater detention ponds shall have the appearance of a landscape feature.

(b) Architectural Design Standards.

(1) Any facade facing a public or private street shall be constructed of brick, stone, textured concrete masonry units, or glass.

(2) Metal siding shall be limited to no more than 20% of the total area on facades not facing a public or private street.

(3) Building facades of greater than 100 feet in length shall include modulation to break up facades in accordance with Section 8-4-9.

Section 7-3-8. Streetscape Standards

(a) Streetscapes shall consist of a landscape strip and a sidewalk and shall be required along all public rights of way as specified below:

(1) A landscape strip at least 5 feet in width must be installed at the back of sidewalk.

i. Landscapes strips must be planted with trees spaced every 30 feet on center and not within site triangles. Trees shall be of a species as specified in Section 13-3-19 for street trees.

ii. Bio-retention areas within sidewalk landscape strips are permitted subject to approval of the Director.

(2) A sidewalk at least 5 feet in width must be installed adjacent to the landscape strip.

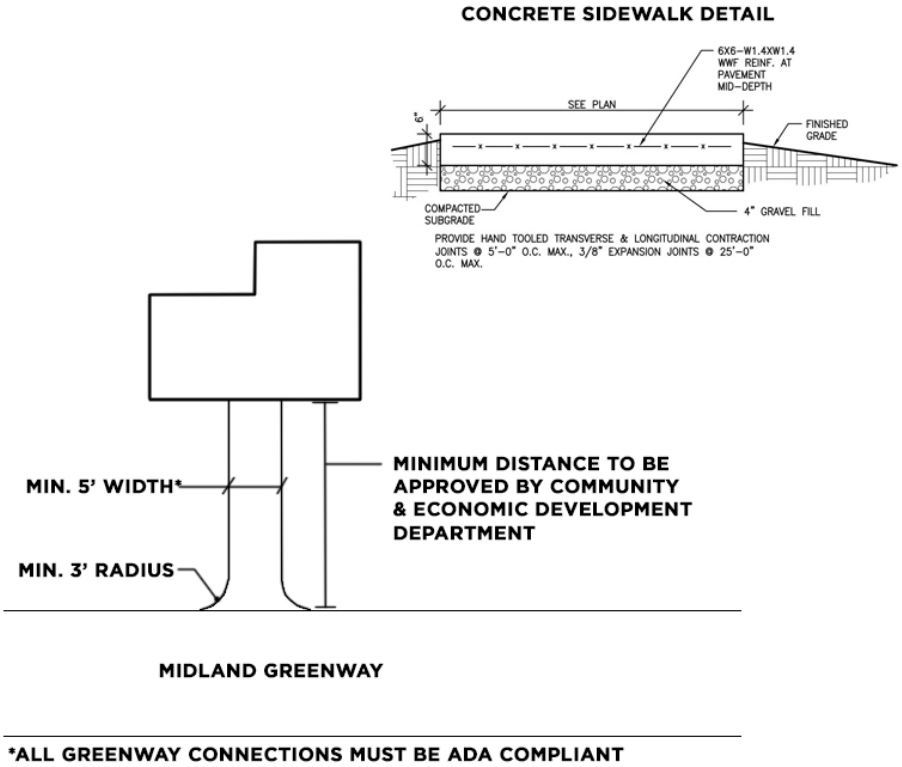
(3) When on-street parking is provided, landscape strips and sidewalks may be reduced, subject to the approval of the Director.

Section 7-3-9. Greenway Connections

(a) All requests to connect to the Midland Greenway must be approved by the Director.

(b) When provided, such connection shall meet the standards indicated below.

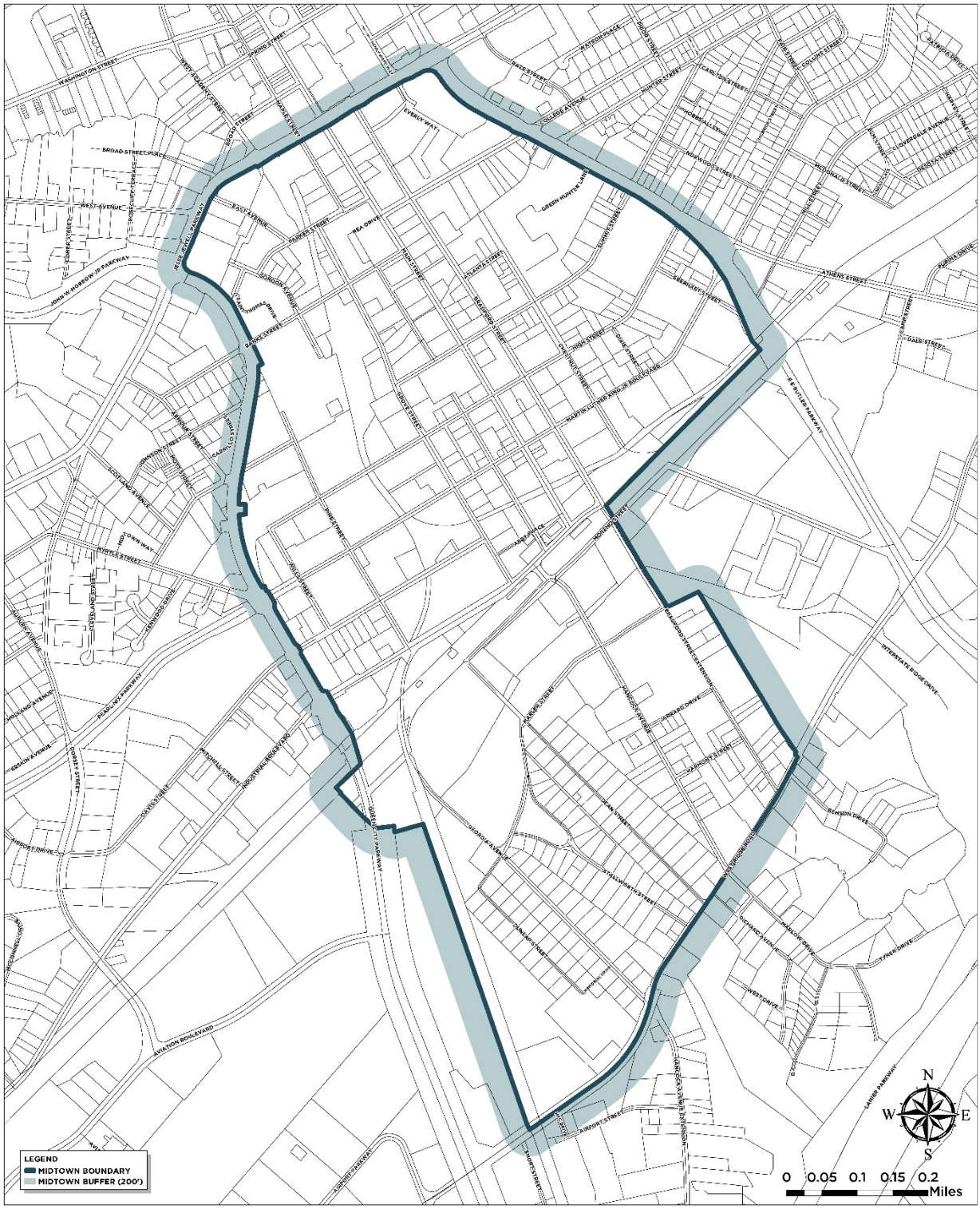
TYPICAL GREENWAY CONNECTION



*ALL GREENWAY CONNECTIONS MUST BE ADA COMPLIANT

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MIDLAND OVERLAY ZONE



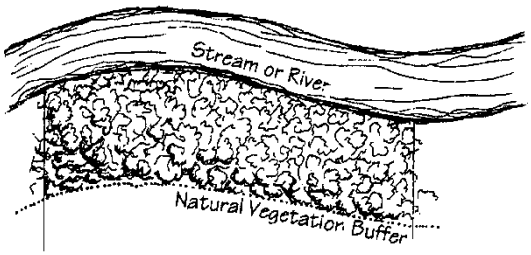
CHAPTER 7-4 NORTH OCONEE WATER SUPPLY WATERSHED PROTECTION OVERLAY

Section 7-4-1. Purpose and Intent

The quality of public drinking water supplies must be assured. Land-disturbing activities associated with development can increase erosion and sedimentation, which threaten the storage capacity of reservoirs and impair the quality of public drinking water supplies. Stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients, and sediments into drinking water supplies, making water treatment more complicated and expensive and rendering waters resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in potential risks of contamination of nearby public drinking water supplies. Therefore, land use activities within water supply watersheds must be regulated to ensure that public water supplies remain clean. This chapter establishes standards, consistent with the state department of natural resources' rules for environmental planning criteria for water supply watersheds (Rule 391-3-16-01) to ensure water quality in the watershed system is not compromised by land activities such as grading, septic systems, and accidental release of contaminants. The intent of this chapter is to minimize the transport of pollutants and sediment to the water supply, to maintain the yield of water supply watersheds, and to ensure water can be treated to meet federal and state drinking water standards, within the North Oconee River small water supply watershed.

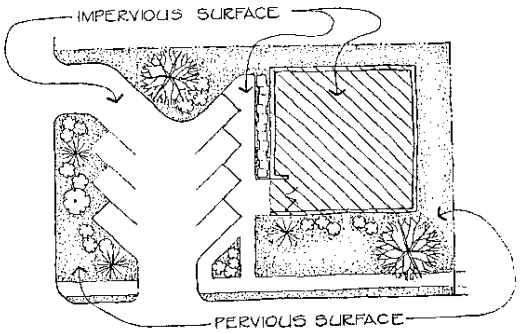
Section 7-4-2. Definitions

Buffer. A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to water supply reservoirs or perennial streams within water supply watersheds.



Impervious surface. A man-made structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, and patios.

Perennial stream. A stream that has normal stream flow consisting of base flow (discharge that enters the stream mainly from groundwater) or both base flow and direct runoff during any period of the year.



Reservoir boundary. The edge of a water supply reservoir defined by its normal pool level.

Small water supply watershed. A watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Utility. All public, private, and municipal, above or below ground, infrastructure systems providing water, stormwater, sanitary sewer, natural gas, electricity, telecommunications, cable television or internet, services; or any other service controlled by the State public services commission.

Water supply reservoir. A governmentally owned impoundment of water for the primary purpose of providing water to one or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corps of Engineers.

Section 7-4-3. Boundaries and Map

The North Oconee River water supply watershed protection overlay zone is hereby designated and shall consist of the land areas that drain to the proposed North Oconee River public water supply intake and water supply reservoir. The boundaries of the overlay zone are defined by the ridgelines of the watershed. The overlay zone boundaries are further delineated and defined on the Official Zoning Map.

Section 7-4-4. Permitted Uses and Use Restrictions

All uses allowed in the underlying zoning districts as established by this Code are permitted in this overlay zone, subject to standards established in this chapter, except for those listed or qualified below:

(a) New hazardous waste treatment or disposal facilities are prohibited.

(b) New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems.

(c) New facilities, located within seven miles of a water supply intake or water supply reservoir, which handle hazardous material of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

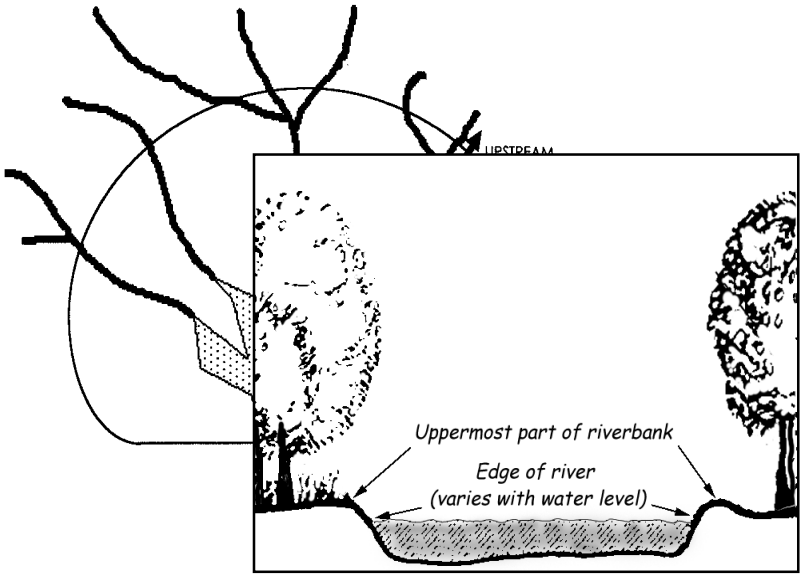
Section 7-4-5. Requirements Within Seven Miles of Intake

Within a seven-mile radius upstream of the North Oconee River public drinking water supply intake, the following requirements shall apply to perennial stream corridors:

(a) A 100-foot buffer shall be maintained on both sides of the perennial stream as measured from the stream banks.

(b) No impervious surface shall be constructed within 150-feet of the perennial stream as measured from the stream banks.

(c) Septic tanks and septic tank drainfields are prohibited in the buffer and impervious surface setback.



Section 7-4-6. Requirements Beyond Seven Miles of Intake

Within the water supply watershed but outside a seven-mile radius upstream of the North Oconee River public drinking water supply intake, the following requirements shall apply to the perennial stream corridors:

(a) A 50-foot buffer shall be maintained on both sides of the perennial stream as measured from the stream banks.

(b) No impervious surface shall be constructed within 75-feet of the perennial stream as measured from the stream banks.

(c) Septic tanks and septic tank drainfields are prohibited in the buffer and the impervious surface setback.

Section 7-4-7. Exemptions

The following land uses and activities are exempted from compliance with this chapter:

(a) Previously existing land uses. Land uses existing prior to the adoption of watershed protection regulations by the City (February 8, 2001). Any structure existing at that time which does not conform to the setback, buffer and/or impervious surface requirements of this chapter may be re-established if damaged or destroyed, provided the degree of non-conformity is not increased with the construction of the replacement structure.

(b) Forestry and silviculture. Specific forestry and silviculture activities in the stream corridor buffer and setback areas, on land that is zoned for forestry, silviculture or agricultural uses, provided that activities are not incidental to other land development activities, activities are consistent with best management practices established by the state forestry commission or the State Department of Agriculture, and provided further that the activity shall not impair the quality of the drinking water stream.

(c) Utility encroachment. If utilities cannot feasibly be located outside the buffer or setback areas required by this chapter, such utility locations can be exempted with permission of the director from the stream corridor buffer and setback area provisions subject to the following conditions:

(1) The utilities shall be located as far from the stream bank as reasonably possible.

(2) The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.

(3) The utilities shall not impair the quality of the drinking water stream.

Section 7-4-8. Impervious Surface Limitations

The impervious surface area, including all public and private structures, utilities, or facilities, of the entire small water supply watershed shall be limited to 25%, or existing use, whichever is greater.

Section 7-4-9. Compliance with Reservoir Management Plan

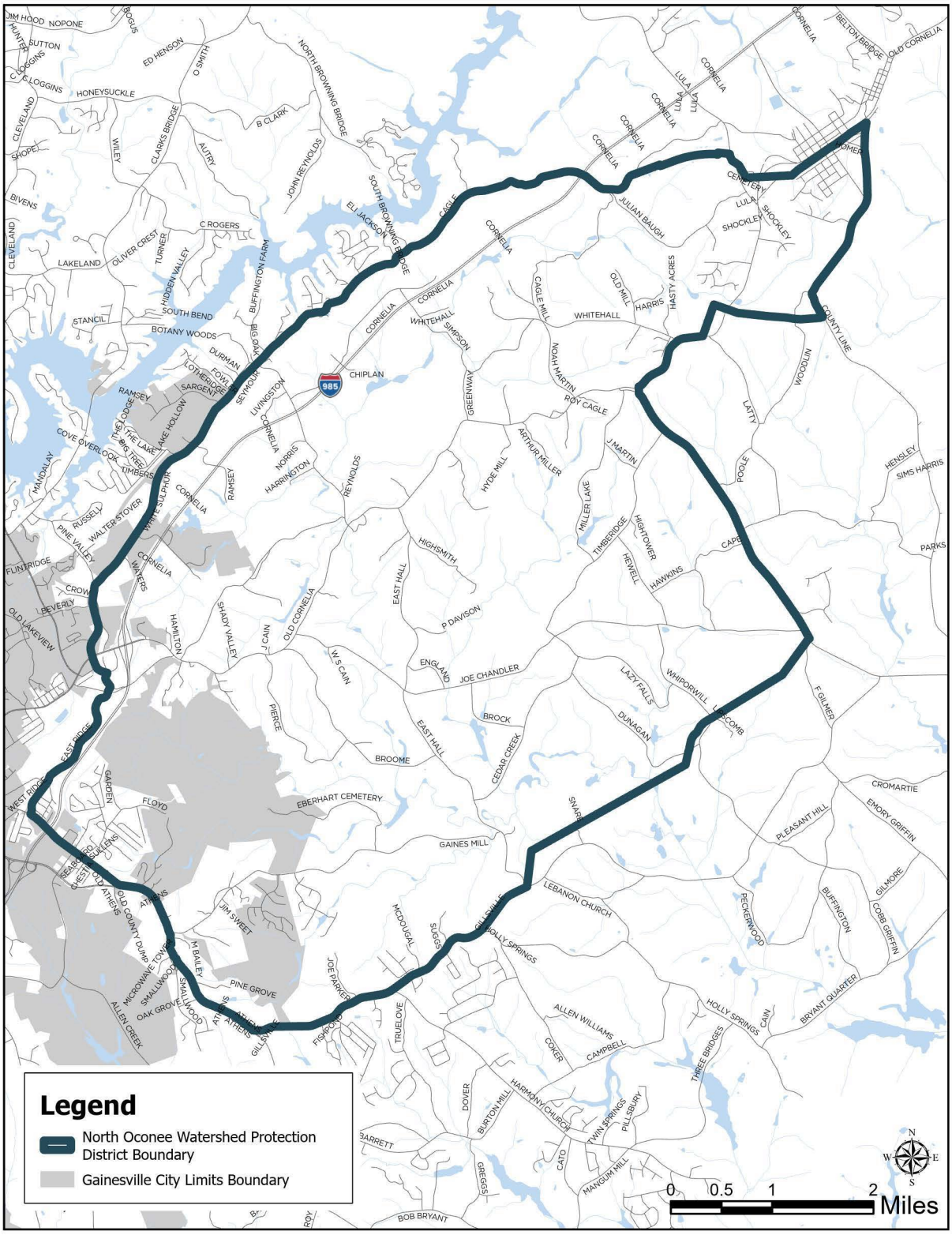
All development within the 150-foot buffer from any water supply reservoir boundary, and any uses of the reservoir itself including docks, shall comply with any reservoir management plan adopted by the local government with jurisdiction and approved by the State Department of Natural Resources.

Section 7-4-10. Annexation, Rezoning or Special Use Within the Watershed

When an application for annexation, rezoning or special use for land subject to this chapter is proposed, the Director, Planning and Appeals Board, and Governing Body shall consider the potential impacts of development resulting from the annexation, rezoning or special use if approved would have on the purposes of watershed protection established in this chapter. Any finding that development pursuant to the annexation, rezoning or special use if approved would result in excessive impervious surface or adverse impacts on water quality in the watershed shall be a sufficient basis for denial of the annexation, rezoning or special use application by the Governing Body.

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North Oconee Watershed Protection



CHAPTER 7-5 GROUNDWATER RECHARGE AREA PROTECTION OVERLAY

Section 7-5-1. Purpose and Intent

Groundwater is among the nation's most important natural resources. It provides drinking water to urban and rural communities, supports irrigation and industry, sustains the flow of streams and rivers, and maintains riparian and wetland ecosystems. In many areas of the nation, the future sustainability of ground-water resources is at risk from contamination. Because groundwater systems typically respond slowly to human actions, a long-term perspective is needed to manage this valuable resource. This chapter is intended to implement rules of the state department of natural resources environmental protection division known as the "Rules for Environmental Planning Criteria" as they specifically relate to groundwater recharge areas (Rule 391-3-16-.02).

It is essential to the health, safety, and welfare of the public that the quality of subsurface public drinking water supplies be maintained. Groundwater resources exist in underground reservoirs known as aquifers. These aquifers are zones of rock beneath the earth's surface that are capable of producing water through a well. They occupy vast regions of the subsurface and are replenished by infiltration of surface water runoff in zones of the surface known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas.

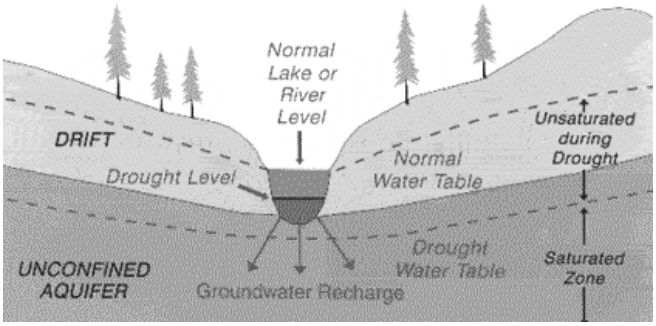
Certain land use activities, such as septic tanks, underground tanks, and chemical spills, pose a threat to the quality of groundwater supplies. Therefore, it is necessary to manage land uses within groundwater recharge areas to ensure that pollution threats are minimized. To this end, this chapter establishes minimum lot sizes to provide for the orderly and safe development of property utilizing on-site sewage management systems.

Section 7-5-2. Definitions

Acre-foot. The volume (as of irrigation water) that would cover one acre to a depth of one foot.

Aquifer. Any stratum or zone of rock beneath the surface of the earth capable of containing or producing water for a well.

DRASTIC. The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in U.S. Environmental Protection Agency document EPA-600-2-87-035. (Note: the DRASTIC methodology is the most widely used technique for evaluating pollution susceptibility).



Hydrologic atlas 18. A map prepared by the state department of natural resources and published by the Georgia Geologic Survey in 1989, which identifies the most significant groundwater recharge areas of the state as spotted areas labeled as “areas of thick soils.”

Hydrologic atlas 20. A multicolored map of the state at a scale of 1:500,000, prepared by the state department of natural resources using the DRASTIC methodology and published by the Georgia Geologic Survey in 1992, which shows areas of higher, average (or medium), and lower susceptibility of groundwater to pollution in the state. This map is also commonly known as the Groundwater Pollution Susceptibility Map of Georgia. Note: This map shows all areas in Hall County as “lower” pollution susceptibility.

Pollution susceptibility. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area. Each significant recharge area shown on hydrologic atlas 18 is classified on hydrologic atlas 20 as higher, average, or lower pollution susceptibility.

Recharge area. Any portion of the earth’s surface where water infiltrates into the ground to replenish an aquifer.

Significant recharge area.: Those recharge areas mapped by the state department of natural resources in hydrologic atlas 18 (1989 edition) within the relevant portion of Hall County. Each significant recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on hydrologic atlas 20. Note: All areas in Hall County are “lower” pollution susceptibility.

Section 7-5-3. Boundaries and Map

The groundwater recharge area protection overlay zone is hereby designated and shall consist of the land areas within the jurisdiction of the City that are mapped as significant recharge areas by the State Department of Natural Resources in hydrologic atlas 18, 1989 edition. The boundaries of the overlay zone are defined on the Official Zoning Map.

Figure 7-1: Groundwater Recharge Area Protection Overlay Zone



Section 7-5-4. Minimum Lot Size

(a) Within an area governed by this chapter, new homes or land uses served by a septic tank/drain field system shall be on lots having minimum lot sizes of at least 110% of the subdivision minimum lot size calculated based on application of DHR table MT-1 within a low pollution susceptibility area, based on application of table MT-1 of the DHR manual (hereinafter DHR table MT-1). The minimums set forth in DHR table MT-1 may be increased further based on consideration of other factors set forth in sections A-F of the DHR manual, as determined by the Hall County Environmental Health Department.

(b) Any lot of record approved prior to the adoption of groundwater recharge area regulations (February 8, 2001) shall be exempt from the minimum lot size requirements of this section.

(c) Within an area governed by this Chapter, no subdivision plat shall be recorded until and unless said plat has been reviewed and approved by the Director as complying with the minimum lot sizes established by this section.

Section 7-5-5. Manufactured Home Parks

Manufactured home parks are prohibited within this overlay zone.

Section 7-5-6. Agricultural Waste Impoundment Sites

New agricultural waste impoundment sites which exceed 50 acre-feet in a significant recharge area shall contain a liner consisting of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5 x 10^{-7}cm/sec or other criteria established by the natural resource and conservation service.

Section 7-5-7. Above Ground Chemical or Petroleum Storage Tanks

Within an area governed by this chapter, new above-ground chemical or petroleum storage tanks having a minimum volume of 660 gallons shall have secondary containment for 110 percent of the volume of such tanks or 110% of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

Section 7-5-8. Hazardous Materials Handling Facilities

Within an area governed by this chapter, new facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of ten thousand (10,000) pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

Section 7-5-9. County Environmental Health Department Approval Required

No development permit or building permit shall be issued by the community and economic development department or the building official for a building, structure, or manufactured home to be served by a septic tank, unless the Hall County Environmental Health Department first approves the proposed septic tank installation as meeting the requirements of the state department of human resources manual.

Section 7-5-10. Site Guidance for Groundwater Infiltration Best Management Practices (BMPs)

Permanent stormwater infiltration devices are prohibited by the Georgia Planning Act in areas having high pollution susceptibility. Avoid the use of infiltration devices at stormwater hotspots and in areas known to provide groundwater recharge to water supply aquifers, unless adequate pretreatment is provided upstream and a liner is installed to prevent pollutants from reaching underlying groundwater aquifers. Infiltration BMPs should only be applied on development sites that have permeable soils (i.e., hydrologic soil group A and B soils) and that have a water table and confining layers (e.g., bedrock, clay lenses) that are located at least two feet below the bottom of the trench or basin. Follow design guidance in the Georgia Stormwater Management Manual (GSMM).

CHAPTER 7-6 WETLAND PROTECTION OVERLAY

Section 7-6-1. Purpose and Intent

Wetlands are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the well being of communities in the State of Georgia. Nationally, a considerable number of wetlands have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other activities. Without additional regulation, piecemeal or cumulative losses of wetlands will continue to occur over time. Therefore, it is in the interest of public safety and the general welfare to avoid damage or destruction to wetlands. The purpose of this Chapter is to promote wetlands protection by providing for the withholding of land use and building permits in areas designated as wetlands until a jurisdictional wetland determination is completed, and establishing permitted and prohibited land uses within wetlands.

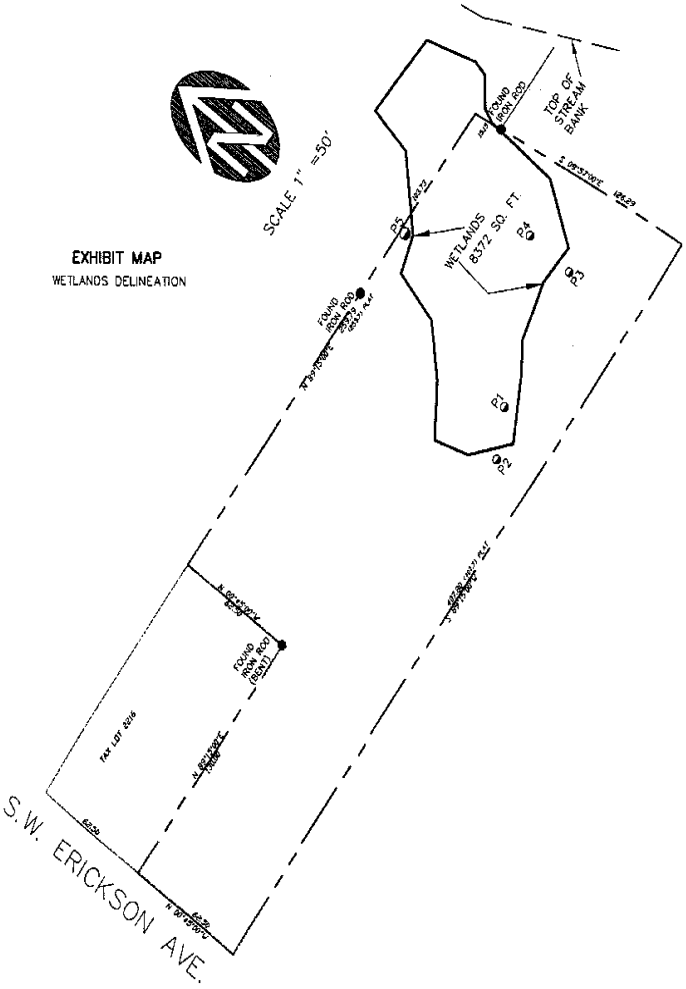
Section 7-6-2. Definitions

Generalized wetlands map. A map of wetlands provided in the city's comprehensive plan and/or any U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) map showing wetlands within the local jurisdiction.

Jurisdictional wetland. An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Jurisdictional wetland determination. A delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.

Wetlands. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands shall include any area delineated as a wetland by the United States Army Corps of Engineers under its jurisdiction pursuant to Section 404 of the Federal Clean Water Act as amended; or any area shown on a 1:24,000 scale, United States Fish and Wildlife Service National Wetland Inventory Map as being a wetland; or any area shown on a 1:24,000 scale, State Department of Natural Resources land cover database map as being a wetland; or any area shown on the generalized wetland map as a wetland.



Section 7-6-3. Boundaries and Map

The Generalized Wetlands Map, as defined by this Chapter, together with all explanatory matter thereon, is hereby adopted by reference hereby made a part of this ULDC.

The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The purpose of the Generalized Wetland Map is to alert developers and landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer or landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 Permit will be required prior to any activity. The Generalized Wetland Map does not necessarily represent the exact boundaries of jurisdictional wetlands within the City of Gainesville and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this Ordinance does not relieve the landowner from federal and state permitting requirements.

Section 7-6-4. Prohibited Uses

All activities which are not exempted shall be prohibited without prior issuance of a local development permit. The following uses are prohibited within wetlands shown on the Generalized Wetlands Map:

(a) Receiving areas for toxic or hazardous waste or other contaminants.

(b) Hazardous or sanitary waste landfills.

Section 7-6-5. Permitted Uses

The following uses shall be allowed within an area shown as a wetland on the Generalized Wetlands Map, to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein.

(a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the Unites States in such a way that would require an individual 404 Permit.

(b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

(c) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.

(d) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.

(e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.

(f) Education, scientific research, and nature trails.

(g) Other uses permitted under Section 404 of the Clean Water Act.

Section 7-6-6. Land Development Permits

(a) Compliance required. No regulated activity will be permitted within the Wetland Protection Overlay without prior approval by the City of Gainesville in the form of a local development permit. Issuance of a local development permit is contingent upon full compliance with the terms of this Chapter 9-7-7 and other applicable regulations.

(b) Assessment. Prior to issuance of a local development permit, the Director shall assess whether the proposed activity is of a type that could result in a disturbance of wetlands and, if so, shall also assess

whether the proposed activity is located within the Wetland Protection Overlay or within 50 feet of the district.

(c) Issuance. If the Director determines that the proposed activity is of a type that could not result in a disturbance of wetlands, or if the proposed activity is not located within the Wetland Protection Overlay or within 50 feet of the Overlay, the Director shall follow normal procedures for issuing a development permit.

(d) Jurisdictional wetland determination. If the Director determines that the proposed activity is of a type that could result in a disturbance of wetlands and that the proposed activity is located within the wetland protection district, or within 50 feet of the wetland protection district, a U.S. Army Corps of Engineers jurisdictional wetland determination shall be required prior to issuance of a local development permit.

(e) Issuance after determination. If the U.S. Army Corps of Engineers determines that the proposed activity would not require a Department of Army permit, the Director shall proceed with normal procedures for issuing a local development permit. If a permit or permission is required by the Corps, the local development permit shall not be issued until compliance with Corps requirements is achieved or future compliance demonstrated.

CHAPTER 7-7 HISTORIC PRESERVATION OVERLAY

Section 7-7-1. Purpose and Intent

The historical, cultural and aesthetic heritage of the City of Gainesville is among its valued and important assets, and the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people . The purpose of this overlay is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value; and is intended:

(a) To stimulate revitalization and preservation of the business districts and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists;

(b) To promote and stimulate business and economic progress through heritage tourism;

(c) To enhance the opportunities for federal and state tax benefits under relevant provisions of federal or state law; and

(d) To provide for the designation, protection, preservation, rehabilitation and restoration of historic districts and properties; and to participate in federal or state programs to accomplish the same.

Section 7-7-2. Definitions

Designation. A decision by the Governing Body pursuant to Chapter 19-2 of this Unified Land Development Code to designate a district or property as "historic" and thereafter prohibit all material changes in appearance prior to the issuance of a Certificate of Appropriateness pursuant to Chapter 19-3 of this Unified Land Development Code.

Historic district. A geographically definable area, which contains structures, sites, works of art or a combination thereof which is designated as historic pursuant to this Chapter and Chapter 19-2 of this Unified Land Development Code, and which:

(a) Exhibits unique character or significant historical, architectural, cultural, aesthetic or environmental interest or value;

(b) Represents one or more periods, styles or types of architecture typical of one or more eras in the history of the city, county, state or region; and

(c) Constitutes a visibly perceptible section of the municipality or county by reason of the above.

Historic landmark. An individual structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, which is designated as historic pursuant to this Chapter and Chapter 19-2 of this Unified Land Development Code, and which is deemed worthy of preservation for one or more of the reasons listed below:

(a) It is an outstanding example of a structure representative of an era;

(b) It is one of the few remaining examples of a past architectural style;

(c) It is a site or structure associated with an event or person of historic or cultural significance; or

(d) It is a site of natural, cultural or aesthetic value that is continuing to contribute to the historical or cultural development and heritage of the city, county, state or region.

Site. The location of a significant event; a prehistoric or historical activity; or a structure, whether standing, ruined, or vanished; where the location itself maintains historical, cultural or archaeological value regardless of the value of any existing structure.

Section 7-7-3. Significance, Boundaries and Maps

The Historic Preservation Overlay is hereby designated. It shall consist of the land areas further delineated and defined on the Historic Preservation Overlay Maps for each designated district and individual landmark as adopted

as part of the official designation ordinance on file with the City Clerk. The Historic Preservation Overlay maps are hereby considered to be a part of the Official Zoning Map of the City of Gainesville and this Chapter by reference.

The following subsections include a description of the physical boundaries and a statement of significance for all designated local historic districts and individual landmarks falling within the Historic Preservation Overlay. Furthermore, in accordance with O.C.G.A. 44-10-26, a list of all property owners, a legal description and map, and the provision for requiring a Certificate of Appropriateness be obtained prior to making a material change in the exterior appearance – whether regarding a district or an individual landmark – shall be made a part of the official designation ordinance which is kept on file in the office of the City Clerk.

(a) Big Bear Café Individual Landmark.

(1) Significance.

i. The subject property, which contains three historic buildings, is located on Main Street within the Midland area of Gainesville, which is one of the oldest sections of Gainesville and has long since been a transitional area. The Big Bear Café landmark contains one of the first permanent commercial buildings constructed along Main Street in the Midland area, and as such, contributed to Gainesville's community planning efforts.

ii. The building was constructed around the turn of the twentieth century, between 1900 and 1930. This building was constructed of local brick of poor quality and shaped as a parallelogram to face Main Street at an angle, thereby creating an architectural effect that is distinctive. The building has housed various cafes and barber shops over time; such uses were particularly vibrant during World Wars I and II. The adjacent building, which housed *The Big Bear Café*, is an identical brick building that was constructed in 1936, a few months after the devastating tornado of April 6, 1936. As with the first building, the parallelogram shape of the building creates an optical illusion that makes Main Street appear to angle toward the right, and like the first, this second building consisted of two sides – the upper side held a café while the lower side next to the alleyway contained a butcher shop. The café was operated by Mr. G. C. Barron as one of the most colorful and exciting establishments on the main line of the Southern Railroad, which connected through major cities between New York and New Orleans. Because Mr. Barron had a black bear in a cage behind the café, local folks referred to the café as *The Big Bear*, and although Mr. Barron did not like the name he used it since it apparently was good for business. The third building, a large metal warehouse of approximately 4,900 square feet in size, was built by the Chambers Lumber Company in 1950 to store mantles, doors, windows, and fine millwork. In 1997, a small group of local artists worked with the owner to create an art studio within the building.

iii. In summary, the one-story brick, parallelogram buildings are typical commercial buildings from the turn of the twentieth century that are plain with commercial hardware characteristic of the period. The obtuse angles, creating the parallelogram shape, required custom fit for practically all of the structural elements and most of the interior finish as well.

(2) Boundaries.

i. The subject property is bounded by Main Street, Bradford Street, a spur track of the CSX Railroad (formerly Gainesville-Midland Railroad) which is no longer in use and property of the Norfolk Southern Railroad. More specifically, the boundary of the local historic landmark follows the property lines of the subject tract as described in the recorded deed and as shown on a recorded plat.

GAINESVILLE

Historic Preservation Overlay
Big Bear Cafe Local Historic Landmark



(b) Harper Smith House

(1) Significance.

i. The subject property is located in and is part of a larger residential neighborhood located southeast of the Downtown Square along the Norfolk-Southern Railroad and near an industrial area. This area of Gainesville is the historic African American community that includes Newtown and Fair Street School and was part of the City's Urban Renewal initiative in the 1970s. More specifically, it is located on the historically important Athens Street, which once was a thriving street with a number of businesses, like the Roxy Theater, that were lost when buildings were demolished to accommodate the widening of Athens Street during Urban Renewal. The area has been traditionally known as the "Athens Street Area" or the "Fair Street Community", "New Town" or "Newtown", or the "Miller Park Community".

ii. The principal structure located on the property was home to Dr. William H. Harper, a prominent African American educator and the first African American principal in Gainesville. Dr. Harper, who was known as a strict disciplinarian, served as the principal of the Summer Hill and Fair Street schools and was instrumental in educating Gainesville's African American students, creating opportunities for those students to attend college. This is especially significant given the deep roots of racial segregation and discrimination in Gainesville and throughout the state. Dr. Harper's home was a haven for African American students who were given food and support and encouraged to expand their educational boundaries. Similarly, Dr. Harper opened his home to other African American educators traveling through Gainesville. Born in 1880, Dr. Harper died in 1945 at the age of 64. He is still revered as an important pioneer in the education of African American children in Gainesville.

iii. After his tenure with Gainesville City Schools, Dr. Harper sold the home to Mr. and Mrs. Enoch (Latrelle) Smith, who were faithful members of the Bethel African Methodist Episcopal (A.M.E.) Church. As members of the church, Mr. Smith served as a Sunday school teacher while Mrs. Smith was a Missionary President and member of the Stewardship Board. Upon their passing, the Smiths willed the property to the church.

iv. Architecturally the principal structure on the property is of no academic style but has been documented as a New South cottage house-type. According to the Phase III structural survey, the main house was constructed in 1930 and remains largely intact despite some cosmetic alterations, which include the enclosure of a front porch and the application of brick veneer to what was likely a wood exterior.

(2) Boundaries.

i. All that tract or parcel lying and being in Land Lot 149 of the 9th District of Gainesville (G. M. D. 411), Hall County, Georgia, and more particularly described as follows:

Commencing at a point located at the northeast corner of the intersection of Athens Street and Martin Luther King, Jr. Boulevard, thence east along Athens Street for about 223+ feet to a point that is the southeastern corner of the subject tract (a/k/a 817 Athens Street) – which is the TRUE POINT OF BEGINNING.

Thence, leaving the right-of-way of Athens Street, go eastward for 185+ feet following the property line common to Bethel A.M.E. Church, Newman West, Tammy Brannon and Eugene Summerour. Then, proceed northward following the property line common to Bethel A.M.E. Church and L.G. Greenlee Estate for 100+ feet and then westward following the lot line of the subject tract common to Nathaniel Shelton and Britton Hulsey for 185+ feet to the right-of-way of Athens Street. Then, follow the right-of-way of Athens Street southward for 100+ feet to the TRUE POINT OF BEGINNING.

Said Individual Property contains a 0.42+ acre tract, more or less.

Property Address: 817 Athens Street, SE.

GAINESVILLE

HISTORIC PRESERVATION OVERLAY
HARPER SMITH HOUSE



(c) Ridgewood Neighborhood Local Historic District.

(1) Significance.

i. The Ridgewood Neighborhood Local Historic District serves as a bridge between the Green Street historic area and the Rock Creek, Ivey Terrace and the Wilshire parks. This area, which is a traditional residential neighborhood with sidewalks on either side of the street, is located within one of the oldest residential neighborhoods in Gainesville. A majority of the structures located in the district were built between 1910 and 1954, most of which were constructed in the 1930s with brick, asbestos siding, or wood exteriors; the most recent structure was built in 1987. Within the historic district is a small park, which is called the H. H. Dean Memorial Park in memory of the developer who originally owned much of the property within this neighborhood. The land for the park was given by H. H. Dean to the Northside Garden Club in the 1930s at a time when much of the H. H. Dean Estate was subdivided to create the Ridgewood neighborhood area.

ii. The structures located within the district are representative of the type of historic residential architecture found in many of Georgia's towns and cities as well as reflect the prevailing national principles and practices of architecture of this time. Architecturally, the district contains outstanding examples of Craftsman, Victorian, and English Tudor style houses, including one-story and two-story designs. Many of the structures contain much of their original fabric – including plaster walls, wood windows, and exterior building materials – but many have been renovated and altered since their original construction.

iii. The Ridgewood Neighborhood Local Historic District contains within its boundaries a high concentration of intact historic residential structures that reflect architectural styles and building types found throughout the early and mid-twentieth century. The structures located within the Ridgewood Neighborhood historic district together depict an era of architectural and historical character and are reflective of the social and cultural development of Gainesville. Moreover, the historic district represents a major period in the development of Gainesville.

iv. The structures within the district are identified on the map contained in this section as *historic* or *noncontributing*; whereas, those properties that are currently vacant of any structures are labeled as such. The district complies with all three of the criteria for selection of a historic district, as listed in Section 9-19-2-6(a)(1) of the Gainesville Unified Land Development Code (a/k/a Historic Preservation Ordinance).

(2) Boundaries.

i. The Ridgewood Neighborhood Local Historic District, which consists of predominantly single-family dwellings, is located north of the Central Business District along Ridgewood Avenue and includes 52 contiguous parcels situated along Ridgewood Avenue, Denton Drive and Bradford Street, as more specifically shown on the Ridgewood Neighborhood Local Historic District map, which is hereby incorporated as a part of this section.

GAINESVILLE

Historic Preservation Overlay
Ridgewood Neighborhood Local Historic District



(d) Green Steet Local Historic District.

(1) Significance.

i. This area of Green Street (a.k.a. North Green Street), which is comprised of various office and commercial uses, was originally a Native American trail and wagon road to North Georgia. During the 1820's, with the discovery of gold in North Georgia, Gainesville became a trading center for gold mines, taverns, and agricultural products; and stores and offices were erected downtown. Following this initial development, Gainesville experienced little growth after the gold rush. After 1870, following the extension of the railroad to Gainesville, North Green Street became the prime residential district as the more affluent and leading business families began constructing residential dwellings along North Green Street. A streetcar track with horse-drawn carts was constructed in the late 1880's, extending from the railroad depot to various parts of the city – including North Green Street. In 1903, the streetcar was electrified.

ii. Green Street, which was an important transportation route to the mining regions of north Georgia, is a four-lane state highway that bisects the Green Street Local Historic District and is lined on both sides with some of Gainesville's largest, oldest and most architecturally distinctive houses situated on large lots. Structures in the district date from the 1880s to the 1930s, although some were constructed later and are non-historic in nature. Many are one and one-half stories in height with a few having two and one-half stories. A majority of the structures are wood framed with clapboard siding, while a few are constructed of brick veneer or consist of synthetic siding added at a later date. Many of the structures, which were built by locally prominent architects and builders including John Cherry and E. Levi Prater, served as residences for some of Gainesville's important professionals and businessmen, educators, and politicians. Historically, the Green Street Local Historic District reflects prosperity of the agricultural and mining industries in the Gainesville area and is known to visitors as one of the outstanding residential neighborhoods in Gainesville.

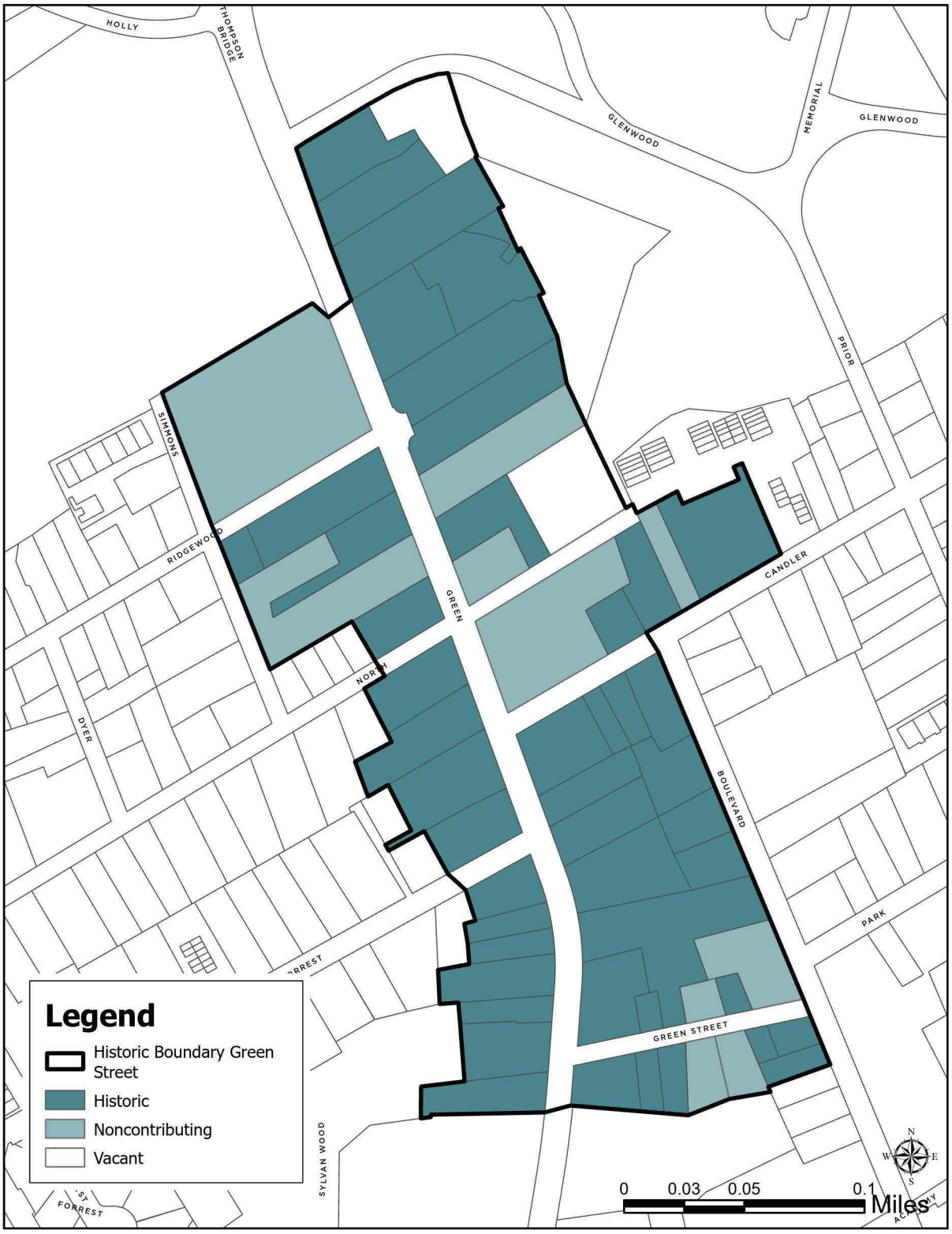
iii. The Green Street Local Historic District contains a high concentration of intact, historic residential structures that reflect architectural styles and building types found throughout the late 19th and early 20th centuries. Moreover, the structures located within the district depict an era of architectural and historical character and are reflective of the social and cultural development of Gainesville. Architecturally, the Green Street Local Historic District contains notable examples of Victorian and Neoclassical Revival houses dating from the turn of the 19th century. The district also contains various architectural styles such as Colonial Revival, Folk Victorian, English Vernacular Revival, early Classic Revival and Italian Renaissance. There are several late-Victorian structures located in the district, including the Smith-Palmer-Estes House which has Queen Anne massing and intricate Eastlake porch detailing. The district also contains an excellent collection of high-style Neoclassical structures with a variety of monumental one- and two-story porticos. While several large trees and residential structures have been removed or demolished since the initial National Register of Historic Places listing in 1975 the architecture and landscaping are relatively unchanged, and as such the district has retained the historic integrity which prompted its recognition as a historically significant area.

(2) Boundaries.

i. The boundaries of the Green Street Local Historic District closely follow the boundary of the Green Street Historic District as listed in the National Register of Historic Places in 1975 and predominantly encompass properties fronting Green Street. This area was included in an updated National Register nomination in 1985, which combined the existing 1975 Green Street and 1978 Brenau College National Register Historic Districts along with adjacent historic neighborhoods to create one comprehensive district: the Green Street-Brenau-Green Street Circle Historic District.

GAINESVILLE

Historic Preservation Overlay
Green Street Local Historic District



Section 7-7-4. Amendments to the Historic Preservation Overlay

(a) Local designations for either districts or individual landmarks may be proposed to be established or proposed to be rescinded by the Governing Body, the Historic Preservation Commission, or property owner. Local designations shall be considered as amendments to the Historic Preservation Overlay.

(b) The Historic Preservation Overlay and Historic Preservation Overlay Maps may be amended from time to time to include new or separate, noncontiguous designated historic districts; to modify existing local historic districts; to designate historic landmarks; or for other reason, provided that such amendment conforms to the provisions of Chapter 19-2 and O.C.G.A. Section 44-10-26, as applicable. The process, procedural requirements, and criteria for considering an application for designation are specified in Chapter 19-2 of this Unified Land Development Code.

(c) In order to amend the Historic Preservation Overlay, the description of the physical boundaries, the statement of significance, and boundary map pertaining to a designation ordinance shall be incorporated into this Ordinance under Section 7-7-3.

Section 7-7-5. Use Restrictions

All uses permitted by right or as a Special Use by the underlying zoning district shall be similarly permitted under the Historic Preservation Overlay, and the underlying zoning district use provisions of this Unified Land Development Code shall remain in effect unless modified.

Section 7-7-6. Affirmation of Building Regulations and Design Guidelines

Nothing in this chapter shall be construed as to exempt property owners or occupants from complying with applicable building codes, nor to prevent any property owner or occupant from making any use of the property not prohibited by other statutes, ordinances, or regulations.

Design and Construction Guidelines, which are standards for evaluating proposed material changes to structures located within the Historic Preservation Overlay, are intended to offer guidance to owners and occupants, architects, developers and other individuals contemplating restoration, remodeling or new construction on how to maintain the architectural integrity of the structure and district as a whole. The design and construction guidelines adopted by the Historic Preservation Commission shall remain in effect and may be amended by the Historic Preservation Commission without the need to amend this Chapter. Nothing in this Chapter shall be construed as to exempt property owners and occupants from complying with applicable design and construction guidelines even though such guidelines are not law.

Section 7-7-7. Requirement for a Certificate of Appropriateness

This Chapter and other Chapters of this Unified Land Development Code related to historic preservation shall pertain to the exterior material appearance of a building, structure, work of art, and site as a whole, or a combination thereof. Upon designation and inclusion of a district or individual landmark within the Historic Preservation Overlay, a Certificate of Appropriateness shall be obtained from the Gainesville Historic Preservation Commission, or from the Department of Community and Economic Development for minor work projects, prior to any material change in the exterior appearance of a structure or site.

The process and criteria for considering an application for a Certificate of Appropriateness are specified in Chapter 19-3 of this Unified Land Development Code. That Chapter includes procedural requirements for obtaining a Certificate of Appropriateness.

Section 7-7-8. Maintenance of Historic Properties

(a) Ordinary Maintenance and Repair. Ordinary maintenance or repair of any exterior architectural feature in or on a historic property to correct deterioration, decay or damage; or to sustain the existing form; and that does not involve a material change in design, material or exterior appearance, does not require

a Certificate of Appropriateness. However, this provision does not exclude ordinary maintenance and repair work from the requirement of obtaining any necessary applicable building permits.

(b) Failure to provide ordinary maintenance. Property owners of individual properties within a designated historic district or of designated historic landmarks shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The Historic Preservation Commission shall be charged with the following responsibilities regarding deterioration by neglect:

(1) Notice to owner to remedy. If the Historic Preservation Commission determines a property owner has failed to provide ordinary maintenance or repair (including but not limited to damaged windows, doors, siding, foundation or roof structure) the Historic Preservation Commission shall notify the property owner and set forth the steps which need to be taken to remedy the situation. The property owner shall have 180 days in which to resolve the situation.

(2) Failure by owner to remedy. If the condition is not remedied within 180 days, the owner shall be subject to the enforcement provisions as specified in Chapter 20-2 of this Unified Land Development Code, or:

i. Upon authorization and at the direction of the Governing Body, the Historic Preservation Commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect.

A. The property owner shall be liable for the cost of such maintenance or repair.

B. The cost of such maintenance or repair shall be a lien against the real property. The lien shall attach to the real property at the time of payment of all costs of maintenance or repair by the City.

ii. Nothing in this section shall be construed to impair or limit in any way the power of the Governing Body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 7-7-9. Undue Hardship

Where, by reason of unusual circumstances, the strict application of any provision of this Chapter would result in the exceptional practical difficulty or undue hardship upon any owner of a specific property, the Historic Preservation Commission has the power to vary strict adherence to the provisions, so as to relieve such difficulty or hardship; provided that such variances or interpretations do not compromise the architectural or historical integrity of the property. An undue hardship shall not be a situation of the person's own making. An undue hardship may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant or owner, nor as a way to gain an advantage or interest over similarly designated properties.

The process, procedural requirements, and criteria for considering a request for an Undue Hardship variance are specified in Section 19-3-8 of this ULDC.

ARTICLE 8 SITE AND ARCHITECTURAL DESIGN GUIDELINES

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CHAPTER 8-1 GENERAL PROVISIONS

Section 8-1-1. Findings

(a) The Governing Authority of the City of Gainesville finds that its citizens have widely shared human values related to the visual environment. The desire to protect certain features of the visual environment reflects a widespread pattern of community preference. That finding is supported by community visioning and character area delineation completed as a part of the city's comprehensive planning process. Regulations for design review and aesthetics are therefore based on the visual sensibilities of the average person in the community.

(b) The Governing Authority of the City of Gainesville finds further that visual harm to a widespread pattern of community preference can occur without the imposition of the site design and architectural review provisions adopted in this article. The requirements contained in this article are related to legitimate public purposes, and they are the minimum necessary to prevent substantial harm to existing features of the visual environment of the city.

(c) Without guidance, future developments will likely be self-contained, compartmentalized, and without coherence and relationship with other developments. Without guidance, developers are unlikely to interrelate streets, buildings, human uses, and natural systems in a manner that results in a coordinated, pleasing, and sustainable built environment across property lines.

Section 8-1-2. Purposes

(a) Establishing the appropriate character of the city requires attention to the aesthetics of development, buildings, and sites. It is in the public interest to direct and control the visual appearance of buildings, structures, landscapes, and development in the city, to prevent patently offensive harm to the existing visual character of the city, and to safeguard the happiness, comfort, and general well-being of citizens.

(b) Careful attention to the architectural design of buildings and the layout of land development sites is in the best interests of the city, its citizens, and business owners. Attractive and integrated architectural and site design features tend to improve an area's image, raise overall property values, attract new businesses and residents, and improve the quality of life.

(c) Design guidelines provide criteria to evaluate the appropriateness of proposed changes to individual buildings, properties, and land use activities. The design guidelines provided in this article are intended to provide clear guidance to property owners and their engineers, landscape architects, site designers, and architects on best practices for site design, land development, and architecture of buildings. Criteria in this article allow for a wide range of architectural and site design solutions but also articulate strong preferences for certain designs. These guidelines are not intended to force a level of sameness; instead, a richness of character and expression is desired.

(d) This article is intended to establish a predictable and clear process for review and approval of the site design of land developments and architectural features of buildings.

Section 8-1-3. Definitions

Attractive: Having qualities that arouse satisfaction and pleasure in numerous, but not necessarily all, observers.

Character: Special physical characteristics of an area, building, structure, or site that set it apart from its surroundings and contribute to its individuality.

Cohesiveness: Unity of composition among elements of a building or among buildings and/or structures, and their landscape development.

Continuity: The flow of elements or characteristics in a non-interrupted manner.

Safety lighting: Exterior lighting that involves ensuring proper levels of illumination to provide safe working conditions, safe passage, and the identification of outdoor hazards.

Security lighting: Exterior lighting installed solely to enhance the security of people and property.

Undergrounding: The placement of utility lines below ground, with the removal of above-ground poles, wires and structures as applicable.

Section 8-1-4. General Requirements

(a) Land development shall be required to comply with the site design review requirements of this article, unless specifically exempted from compliance with this article in accordance with Section 8-1-6.

(b) Buildings and structures shall be required to comply with the architectural design review requirements of this article, unless specifically exempted from compliance with this article in accordance with Section 8-1-6.

(c) No grading or alteration or improvement of land shall take place prior to approval of site design in accordance with the requirements of this article.

(d) The Community and Economic Development Department shall not issue a minor land development permit or a land development permit until and unless site design review has been accomplished in accordance with this article.

(e) No construction of buildings or structures shall commence, and no building permit shall be issued by the Community and Economic Development Department, prior to the approval of the architectural design in accordance with the requirements of this article.

(f) No demolition permit shall be issued by the Community and Economic Development Department for any building or structure in the Central Business District prior to the approval of the demolition of said building or structure by the Community and Economic Development Director.

(g) A demolition permit may be denied for the following reasons:

(1) The proposed new structure or use on the site is not compatible with the Central Core character area and the design guidelines as identified in Chapter 8-5.

(2) The demolition permit allows the demolition of a historically significant building that contributes to the Central Core character area.

(h) If the demolition of the building or structure is denied by the Community and Economic Development Director, the applicant shall have the right to appeal in accordance with Chapter 18-7.

Section 8-1-5. Interpretation

(a) The provisions in this Article which use the term “shall” are regulations and must be followed.

(b) When the terms "should" and "are encouraged" are used in this chapter, the language shall be considered a guideline, and flexibility toward compliance may be exercised if it is determined by the community development director that the spirit and intent of the guideline is being followed or an alternative to the guideline is acceptable. However, successive departures from the guidelines may be considered grounds for denial of an application for site design review.

Section 8-1-6. Exemptions

The following are exempt from the provisions of this article:

(a) Previously approved. Development consistent with previously approved site and architectural design plans, or their equivalent, as determined by the Director.

(b) One- and two-family dwellings. The development of detached, single-family dwellings and two-family dwellings shall be exempt from the site plan review requirements of this Article unless the Director determines that a minor land development permit is required as detailed in Chapter 11-6. One- and two-family dwellings shall also be exempt from the architectural review process established in this article unless otherwise specified as a condition of zoning approval.

(c) Activities in historic districts. Any development, building, or material change in appearance within the Historic Preservation Overlay, as established in Chapter 7-7 of this ULDC. This shall not prevent the Historic Preservation Commission or the Community and Economic Development Department from considering and applying various design guidelines of this article, if appropriate, to development and buildings within the Historic Preservation Overlay during the process of considering the issuance of certificates of appropriateness.

(d) Re-occupancy. Re-occupancy of a building for which design review has already been approved.

(e) Interior renovations. Alterations and repairs to the interior of existing buildings.

(f) Other. Other instances as may be determined appropriate by the Director. To this end the Director may exempt a project or activity from compliance with this article for good cause shown. Any such decision to exempt an activity from compliance with this article and the reason for such exemption shall be documented in writing by the Director and shall be public record. Exemption decisions by the Director are subject to appeal in accordance with Chapter 18-7.

Section 8-1-7. Character Areas Recognized

The following character areas are established in the Gainesville comprehensive plan and are hereby recognized for purposes of applying the site and architectural design requirements of this chapter. The boundaries of the various character areas shall be as delineated in the Gainesville comprehensive plan, as may be amended from time to time:

Central Core	Historic Mill Villages
Traditional Neighborhoods	Suburban Neighborhoods
Lake District	Suburban Commercial
West Side	Economic Development Gateways
Limestone Medical Corridor	Regional Recreation/Conservation

CHAPTER 8-2 SITE AND ARCHITECTURAL DESIGN REVIEW

Section 8-2-1. Design Review Required

For all lands, developments, buildings, and structures subject to compliance with this article, an application or applications shall be made by the property owner or agent for the property owner to the Community and Economic Development Department for site and architectural design review approval, as required by and in accordance with this article.

Section 8-2-2. Division of Design Review



(a) Site and architectural design review requires two applications and approval processes, one for the development site and one for the building or structure. Typically, the civil review is completed prior to starting architectural review.

(b) The division of design review applications and approval processes into two distinct components is appropriate and permissible when a property owner or land developer desires to proceed with land development approval but elects at that time to defer application for the architectural review and approval of the building or buildings until a subsequent stage of the permitting process.

(c) The Director may choose to divide the design review application when it is determined that site design review, as would be required by this article, is unnecessary given the existing developed state of the lot. In such instances the Community Development Director may exempt a development proposal from the site design requirements of this article and require only that the architectural design review process be completed.

Section 8-2-3. Application Requirements for Site Design Review

(a) When a preliminary plat, minor land development permit, or land development permit is required, the application requirements for site design review shall at minimum be those plans and information required for such application, as specified in Article 11 of this code. In addition, an application for site design review shall include all information necessary to demonstrate compliance with the site design requirements of this article.

(b) The Director or their designee may refuse to act on an incomplete application or an application for site design review that fails to contain submission materials with respect to design that it finds necessary to make a decision on said application.

(c) The Director or their designee may waive submission requirements where, in their opinion, such information is not necessary to ensure compliance with this article.

Section 8-2-4. Site Design Approval

(a) The Director or their designee is authorized to review, approve, conditionally approve, or deny applications for site design approval, in accordance with this article.

(b) When an application for a preliminary plat or land development permit is made, the applicant shall be required to comply with the site design requirements of this article, as well as all other applicable development regulations of this code. Plans and information submitted as a part of an application for a preliminary plat, minor land development permit, or land development permit shall constitute an application for site design approval as required by this article only if said application includes all the information required or necessary to ensure compliance with the provisions of this article for site design.

(c) When site design review is applied for and accomplished in conjunction with a preliminary plat, minor land development permit, or land development permit application, a decision on site design review shall be made in accordance with procedural requirements for considering preliminary plats or the land development permit.

(d) If a preliminary plat or land development permit is not required by this ULDC, then compliance of said development or building with the requirements of this article relative to site design shall be reviewed by the Director or their designee in conjunction with a building permit application or prior to issuance of a building permit for a building on the property.

(e) When site design review is applied for and accomplished in conjunction with an architectural design application, a decision on site design review shall be made in accordance with the procedures applicable for architectural design review as specified in this ULDC.

Section 8-2-5. Architectural Design Approval

(a) The Director or their designee is authorized to review, approve, conditionally approve, or deny applications for architectural design review, in accordance with this article, except as specifically provided in this section.

(1) Demonstration of compliance with the architectural review requirements of this article at the time of rezoning or special use application approval, or as part of a planned unit development, shall be construed as satisfying the architectural design review requirements of this article.

(2) When an application for a building permit is made, the applicant seeking design approval shall be required to comply with the applicable architectural design requirements of this article. Architectural design review applications may be coordinated with existing administrative processes established by the Inspections Services Division of the Community and Economic Development Department for building plan reviews and the issuance of building permits. It shall be the

responsibility of the Community and Economic Development Department to review building permit applications for compliance with the architectural design requirements of this ULDC.

(3) The Director shall not authorize the issuance of a building permit or certificate of occupancy until and unless an application for architectural design review of the building or buildings proposed has been submitted and approved in accordance with this ULDC.

Section 8-2-6. Application Requirements for Architectural Design Review

Applications for architectural design review shall include the following:

(a) Application fee (included in other review fees).

(b) Application form furnished by the Community and Economic Development Department, including signature of property owner or authorized agent.

(c) Survey plat of the property.

(d) Letter of intent describing the proposed building(s) on the property, which may include a description of any special conditions voluntarily made a part of the request.

(e) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements.

(f) Exterior elevation drawings drawn to scale and signed by an architect, engineer or other appropriate professional. Exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed buildings and structures.

(g) Material and colors samples, which may be provided as written descriptions, product summary sheets, photographs, or other information in lieu of actual color and material samples.

(h) Other information as may be determined by the Director as essential to demonstrate compliance with this article.

Section 8-2-7. Criteria for Decision on Architectural Design Applications

In acting upon applications for architectural design approval, the Director or their designee shall consider:

(a) Whether the proposal complies with the requirements of this article and other applicable provisions of this ULDC.

(b) Whether the proposal is consistent with the design guidelines of this article.

(c) Whether the proposal is consistent with the descriptions, intentions, and purposes of the character area in which the property is located, as described in the comprehensive plan, as may be applicable.

(d) Whether the design, scale, arrangement, materials, and colors of the proposed building or structure is compatible with buildings and structures along the same street block.

Section 8-2-8. Decision with Regard to Architectural Design Applications

(a) The Director shall render a decision on the architectural design application no more than 15 calendar days from the date a complete application is received.

(b) If the Director finds that the proposal meets the criteria for architectural design as specified in this article, the Director shall approve the application.

(c) If the Director finds that the proposal is mostly acceptable but requires modifications, the Director may approve the application with conditions, or the Director may request changes and require modifications to the proposed design for consideration as a modified application at a future date.

(d) If the Director finds that the proposal fails to meet the criteria for architectural design specified by this ULDC, the application shall be denied.

(e) The following additional items may be considered by the Director when reviewing a design application:

(1) The design introduces an architectural character foreign to the area.

(2) The design utilizes extreme contrasts of material or color, or intense or lurid colors.

(3) The design includes multiplicity or incongruity of details resulting in a restless and disturbing appearance.

(4) An absence of unity and coherence in composition not in agreement with the density and character of the present structure or surrounding area.

Section 8-2-9. Notice of Decision

(a) The Director shall notify the applicant in writing of the action taken on design review applications promptly after the date action was taken on said application.

(b) If the application was denied, the reasons for the denial shall be stated in the written notice of decision.

Section 8-2-10. Reapplication and Appeal

(a) An applicant for architectural design approval may revise plans and reapply for architectural design approval.

(b) Any decision by the Director with respect to a design review application required by this article may be appealed in accordance with the requirements of Chapter 18-7 of this code, with the following exception: Where Chapter 18-7 refers to the Planning and Appeals Board, for purposes of any such appeal per this Article, the Governing Authority of the City of Gainesville shall be substituted.

Section 8-2-11. Compliance with Approved Applications

(a) Approval of site and architectural design applications is conditioned on compliance with the approved applications.

(b) After the development and building are constructed and completed, but prior to the issuance of a certificate of occupancy, the Director or their designee shall inspect the site and building for compliance with the approved design plans.

(c) The Director shall instruct the building inspector not to issue a certificate of occupancy if the site or building is not in compliance with approved design plans.

(d) The Director shall instruct the building inspector not to issue a certificate of occupancy until all documents required by this ULDC, including but not limited to all documents required by the City Department of Water Resources, have been submitted with proper signatures.

CHAPTER 8-3 SITE DESIGN GUIDELINES

Section 8-3-1. Purpose and Intent

This chapter provides guidelines for the design of land developments on individual sites and will be applied by the Community and Economic Development Department during the process of site design review as required by Chapter 8-2 of this Code.

Section 8-3-2. Applicability

Unless the context of a particular section clearly indicates otherwise, the site design guidelines of this chapter shall be considered by the Community and Economic Development Department to apply to all land developments and minor land developments.

Section 8-3-3. Cross Reference to Existing Code Requirements

At the time an application for preliminary plat is submitted, a proposed subdivision will be reviewed for compliance with existing code requirements, including but not limited to: Article 11, "Subdivisions and Land Development," including specifically Chapter 11-3, "Design Requirements for Blocks and Lots"; Chapter 11-4, "Preliminary Plat"; and Chapter 11-8, "Design Requirements for Streets". Designers should consult with Community and Economic Development department and Water Resources Department staff early in the process to identify key chapters and sections of this Code that impact site design.

Section 8-3-4. Existing Site Analysis

(a) Significant natural features of the site proposed to be developed should be identified on an existing conditions map and to the extent practicable incorporated into the site plan or plans for land development.

(b) The Community and Economic Development Department Director may exempt development proposals on properties with one acre or less in area, or minor land developments, from this requirement if, through a site visit or other information presented, the requirement for a site conditions analysis can be satisfied with other data and enforcing this requirement would be onerous given the development proposed.

(c) Properties with one acre or less in area shall be subject to stormwater requirements. The Director of the Department of Water Resources may exempt properties with one acre or less in area from stormwater requirements contained in this Code if, through a site visit or other information presented, the stormwater requirements would be unduly onerous given the development proposed.

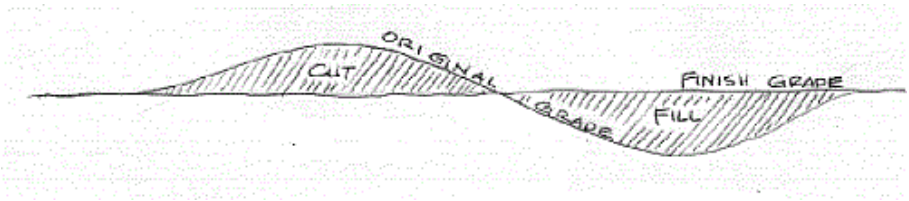
(d) In cases where significant natural water features such as floodplains, wetlands, and streams exist, exemptions should be decided on a case-by-case basis by the Director of the Department of Water Resources.

Section 8-3-5. Grading

(a) Developments should be designed to fit the existing contours and landform of the site and use of available buildable areas in the most space-efficient way to minimize clearing, grading, and earthwork and to reduce visual impacts and erosion.

(b) Where cut and fill is required, balancing the cut and fill is highly encouraged.

Figure 8-1: Illustrative Cut and Fill



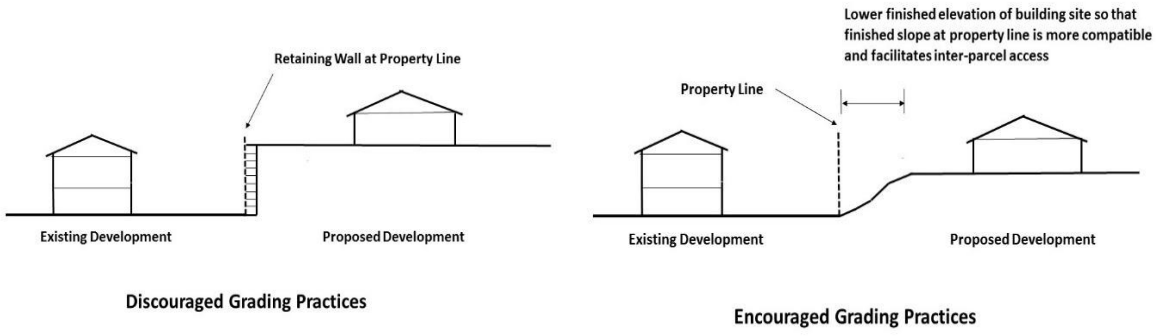
(c) Abrupt or unnatural-appearing grading should not be proposed and will not be allowed. Land development activities in areas that have slopes greater than 25% should not be considered unless necessary for roadway or utility construction. See Chapter 13-8 for guidance on development on steep slopes.

(d) Grading should blend with the contours of adjacent properties with minimum alteration of the natural topography necessary to accomplish the development.

(e) Where retaining walls are required, the height and length of retaining walls should be minimized and screened with appropriate landscaping. Tall, smooth-faced concrete retaining walls should be avoided in highly visible areas. Terracing should be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.

(f) When cut or fill is involved in the grading of an individual building pad or development site, the finished grade of the parking lot or driveway should be terminated far enough inside the property to allow for the slope to return to that of the natural grade or finished ground elevation at the property line. When inter-parcel access is provided or required, the slope at such a property line shall not exceed 10%. The purposes of this design guideline are to both facilitate inter-parcel access at reasonable grades between compatible land uses and to avoid harsh differences in grade between abutting properties. This practice also provides for a blending of the finished site elevations in a manner so that stark contrasts in the landscape will not occur. Where inter-parcel access is not required due to incompatible land uses, grade differentiation at a property line may be permitted but should be mitigated or softened as much as possible (see illustration below).

Figure 8-2: Discouraged and Encouraged Grading Practices



(g) Specific grading design criteria for stormwater best management practices should be followed as set forth in the latest revision of the Georgia Stormwater Management Manual (GSMM).

Section 8-3-6. Stormwater Management Generally

(a) Stormwater management is governed by Chapter 11-11 of this ULDC. One- and two- family dwellings are exempt except as otherwise specified in Section 11-11-6.

(b) Land developers should utilize, to the maximum extent practicable, stormwater Better Site Design practices as described in the latest revision of the GSMM.

(c) To improve infiltration, porous paving materials are encouraged for certain applications. Porous paving materials include porous concrete, porous asphalt, porous unit paver systems, and gravel paving systems.

(d) Grassy swales and bio-retention areas are acceptable and encouraged alternatives to curbing, piping, and detention of water. Where curb is necessary, a curb cut should be used to direct runoff to swales or bioretention areas. Rain gardens and constructed wetlands are also encouraged to handle surface drainage of parking lots providing 10 or more parking spaces.

Figure 8-3: Bioretention Area and Permeable Pavers

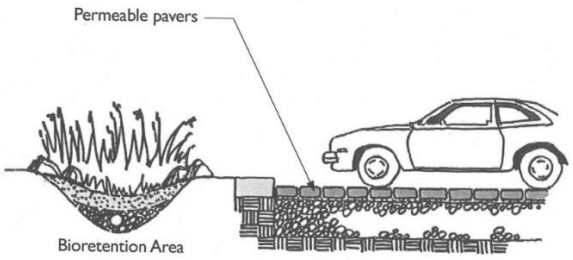
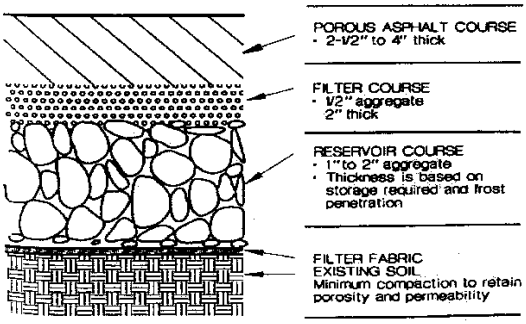


Figure 8-4: Porous Asphalt Paving Section



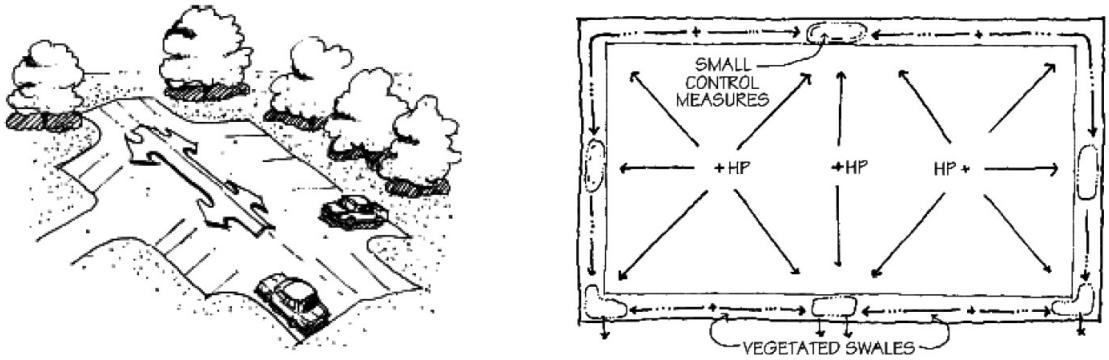
Source: Parker, Dave, et al. 2002. "Design of Stormwater Management Facilities." In The Dewberry Companies, Land Development Handbook (2nd ed.). Figure 22.37, p. 525. New York: McGraw-Hill

(e) Natural drainage patterns that exist on the site will need to be identified to plan around these critical areas where water will concentrate. Where possible, natural drainage ways should be used to convey runoff over and off the site to avoid the expense and problems of constructing an artificial drainage system.

(f) Development should minimize and then mitigate the hydrologic impacts of land use activities closer to the source of generation. This can be done by implementing the principle of "microstorage," or breaking up drainage areas into small manageable subcatchment areas. Break up flow directions from large paved surfaces, and direct stormwater where appropriate to drain to natural systems, vegetated buffers, natural resource areas, or infiltratable zones/soils.

(g) Garbage receptacles shall not be placed in a manner which impedes or obstructs the flow of surface water or block drains, manholes, or other stormwater best management practices.

Figure 8-5: Design Paved Surfaces to Disperse Flow to Vegetated Areas



Source: NC DENR in GSMM

Section 8-3-7. Stormwater Detention

(a) Man-made lakes and stormwater ponds should be designed for maximum habitat value and/or to serve as amenity features.

(b) Because detention ponds that impound water are hazardous, the following precautions should be taken: avoid steep slopes; slopes around the detention pond should be 2.5:1 or flatter; 3:1 where maintained by tractor or other equipment. Fence the area if slopes require and post with warning signs.

(c) Stormwater detention ponds or areas should be located to the rear or side of buildings. If such a location is not feasible from an engineering standpoint, the detention area may be placed underground with the approval of the Department of Water Resources Director, or it may be approved in front of a building at surface level if it is designed as an amenity feature with shallow slopes, does not contain fencing, and is surrounded by landscaping approved by the Director of both the Community and Economic Development and the Department of Water Resources.

Section 8-3-8. Parking

For uses other than single-family and two-family residential, parking should be located to the side or rear of the building, or, where there is more than one building, to the side or rear of the building closest to the right-of-way line.

Section 8-3-9. Loading

In addition to the standards of Section 13-4-7, storm drains should be avoided in loading areas to prevent the release of spilled materials.

Section 8-3-10. Utilities

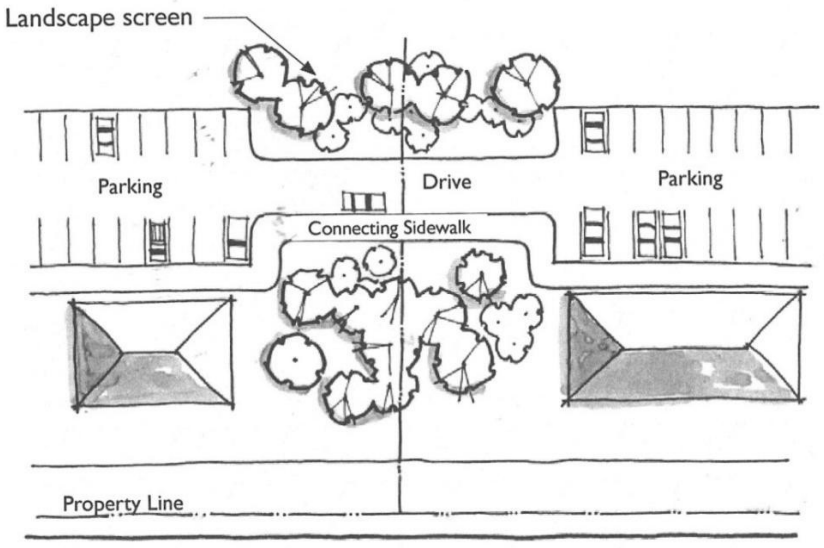
For all new construction and redevelopment, linear utilities along public streets or in public right of way must be placed underground. The Director of Public Works may approve an exception, if subsurface rock or other unique hardships make such installation unfeasible.

Section 8-3-11. Interparcel Access

(a) For any office or retail sales or services use, the property owner shall grant an access easement as described in this section to each adjoining property that is zoned or used for an office or retail sales or services use. The purpose of the easement is to facilitate movement of customers and their vehicles

without generating additional turning movements on a public street. When required by this section, interparcel access easements shall be recorded in the office of the Clerk of Superior Court, Hall County, and reference to deed book and copy of such recorded easement provided to the Director.

Figure 8-6: Illustrative Interparcel Access



(b) Access easement provisions.

(1) The interparcel access easement shall permit vehicular access from the adjoining property to driveways and parking areas intended for customer or tenant use; but parking spaces may be restricted to use by the owner's customers and tenants only.

(2) The granting of such easement shall be effective upon the granting of a reciprocal easement by the adjoining property owner.

(3) Upon the availability of access to driveways and parking areas of the adjoining lot, the pavement or other surfacing of the owner's driveways and parking areas shall be extended to the point of access on the property line.

(c) The location of vehicular connections across a property line should be mutually determined and constructed by both property owners. Connection of parking areas for vehicular access may be provided in the front portion of the site upon approval from the Director of Public Works. In cases where it is not possible to provide the connection in front, it may be provided in the rear portion of the site. In the case of coordination problems or any factors preventing construction of an interparcel connection, the Public Works Director and the Community and Economic Development Director shall determine the location of connection to be constructed by property owners.

(d) Where the proposed land use is such that adverse impact of the required easement on the use of the property would outweigh the reduced impact on the public street provided by the reciprocal easements, the Director may waive the requirement for access easements, in whole or in part, administratively.

CHAPTER 8-4 ARCHITECTURAL DESIGN GUIDELINES

Section 8-4-1. Purpose and Intent

This chapter provides guidelines for the architectural design of buildings and structures on individual sites which are generally appropriate on a citywide basis and will be applied by the Community and Economic Development Department during the process of architectural design review as required by Chapter 8-2 of this ULDC.

Section 8-4-2. Applicability

(a) Unless the context of a particular section clearly indicates otherwise, the architectural design guidelines of this chapter may be considered by the Community and Economic Development Department to apply to all buildings and structures.

(b) A detached, single-family dwelling or two-family dwelling shall be exempt from the requirements of this Chapter.

Section 8-4-3. Architectural Design Compatibility

Buildings or other improvements should be compatible with the orientation, directional emphasis, shape, volume, massing, proportion, rhythm, scale and materials of the context, setting and streetscape of the site. Architectural design should be compatible with the developing character of the neighboring area. Design compatibility includes complementary building style, form, size, color, materials, and detailing. Determinations of compatibility will consider each of the following factors as appropriate:

(a) Size: The relationship of the project to its site.

(b) Orientation: The relationship of buildings to streets. Buildings should front directly onto public sidewalks unless site features prohibit such building configuration.

(c) Scale: The relationship of the building to those around it. Efforts to coordinate the height of buildings and adjacent structures are encouraged. This is especially applicable where buildings are located very close to each other. It is often possible to adjust the height of a wall, cornice or parapet line to match that of an adjacent building.

(d) Massing: The relationship of the building's various parts to each other, and the consistency of roof characteristics to adjacent buildings.

Figure 8-7: Appropriate Placement and Orientation of New Construction

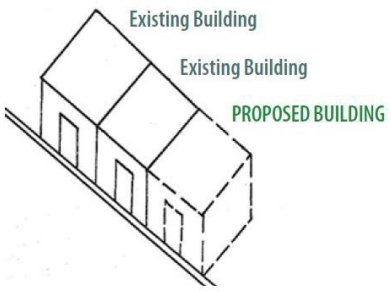
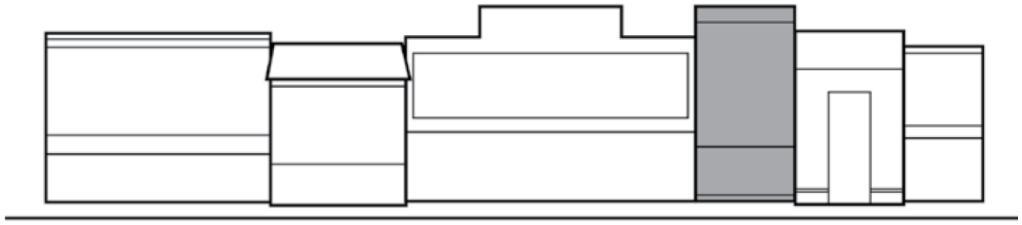


Figure 8-8: Illustrative Scale and Continuity



Note: Scale and continuity of building addition is appropriate; however, cornice line could be better coordinated.
Source: City of Gainesville Preservation Manual and Design Guidelines

(e) Fenestration: The placement of windows and doors. The building may incorporate design that is similar to or links with designs of neighboring buildings. For instance, window lines should be placed in a pattern that reflects the same elements on neighboring buildings.

(f) Rhythm: The relationship of fenestration, recesses and projections.

(g) Setback: Placement of the building in relation to setback of immediate surroundings.

Figure 8-9: Example of Appropriate Fenestration on Commercial Addition



(h) Materials: The compatibility of building materials with those used in the zoning district.

(i) Context: The overall relationship of the project to its surroundings.

Section 8-4-4. Building Style and Design

(a) When more than one building is constructed on a development site or within a planned development, all buildings shall reflect a compatible architectural style and create a cohesive visual relationship between the buildings.

(b) "Theme" or stylized architecture which is characteristic of a particular historic period or trend is not encouraged, unless the existing building or site is historically important to the district or necessary for architectural harmony.

(c) Franchise architecture will be reviewed for compatibility with surroundings and may require adjustments to be compatible with surrounding buildings in the district.

(d) Building design should include a minimum of one-foot high cornices extending along the entire frontage and sides of buildings.

(e) Building design should include a minimum of 18-inch high contrasting base extending along the entire frontage and sides of buildings.

(f) Building design should incorporate and feature awnings, canopies, porches, porticos, patios, decks, or other covered entries to portions of the facade at the ground level.

Section 8-4-5. Classification of Building Materials

Building material can be classified based on its application as:

(a) Primary Material: The dominant material of a building's exterior walls. A primary material will typically comprise 75% to 90% of each exterior building face excluding windows and doors; however, architectural style and detailing of the building should dictate the appropriate composition of primary material.

(b) Accent Material: A material utilized to provide architectural interest and variety on a building. Accent materials will typically comprise 10% to 25% of each building face excluding windows and doors, depending on architectural style and context. Accent materials are not to be utilized as a primary building material.

Section 8-4-6. Exterior Building Materials and Finishes

(a) Building material prohibitions. The following types of external building materials (siding and window and door frames) are prohibited: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished walls; exposed plywood or particle board; and non-plastered, exposed concrete masonry blocks. Exterior metal siding may be used as an accent

material as defined in this chapter. This provision applies also to accessory buildings and structures, including signs.

(b) Similar Finishes on All Sides. All buildings should be designed so that all sides contain similar architectural finishes and detailing.

(c) Durability. The durability of building materials should be considered; materials that do not need high maintenance or frequent placement are preferred.

(d) Brick and Stone. Brick and stone convey permanence and are preferred primary and accent building materials for all building types.

(e) Wood. Wood may be appropriate in specific contexts.

(f) Siding. Horizontal aluminum and vinyl sidings should not be utilized for non-residential applications.

(g) Exterior Insulating and Finish System (EIFS). EIFS or Dryvit material should not be used as a primary facade material. Where used, EIFS is limited to accent applications above the ground floor.

(h) Fiber Cement. The use of fiber cement materials should be limited to accent applications only, except when approved by the Director as a substitute for wood siding.

(i) Glass. The use of glass as a primary exterior building material may be appropriate for office parks or pedestrian retail streets. Glass shall have a transmittance factor of at least 20%. Mirrored glass with a reflection greater than 20% is strongly discouraged and should not be used in lieu of exterior windows for the facade.

(j) Stucco. The use of stucco is acceptable for accent applications along building facades. Finishing options include smooth stucco with some slight texture, stucco that can be tooled to produce various patterns, or a uniform rough stucco finish that is applied over smooth stucco.

(k) Cast-in-place Concrete. Cast-in-place concrete may be appropriate for industrial buildings or secondary facades if sufficient articulation and detail is provided to diminish the appearance of a large, blank wall and provide a high-quality architectural finish. Cast-in-place concrete may be acceptable as an accent material; its appropriateness for primary material applications will be reviewed within the context of the design intent and surrounding character of development.

(l) Pre-cast Concrete. Pre-cast concrete should be limited to industrial and selected institutional buildings and should incorporate articulation and additional architectural detailing when visible from a right of way or abutting property. The appearance of panel joints should be minimized.

(m) Concrete Masonry Units. Concrete masonry units, including split face, may be acceptable as an accent.

(n) Architectural Metal Cladding. Smooth metal panels may be acceptable. The use of metal should account for the design intent of the building and surrounding character of development.

Section 8-4-7. Roofs

(a) All roof surfaces on nonresidential buildings oriented to or facing a street should have a minimum pitch of 3:12 (3 inches of rise for every 12 inches of run); provided, however, that flat roof surfaces may be required or approved by the Director if compatible with surroundings, and if rooftop equipment is screened from view by building elements that are designed as an integral part of the building architecture, or by a parapet wall.

(b) If metal is authorized as a roofing material, the metal shall not reflect light any more than the siding material used on the same building.

Section 8-4-8. Buildings on Corner Lots or at Street Corners

Buildings on street corners should be designed with an architecturally distinctive entrance facing the corner.

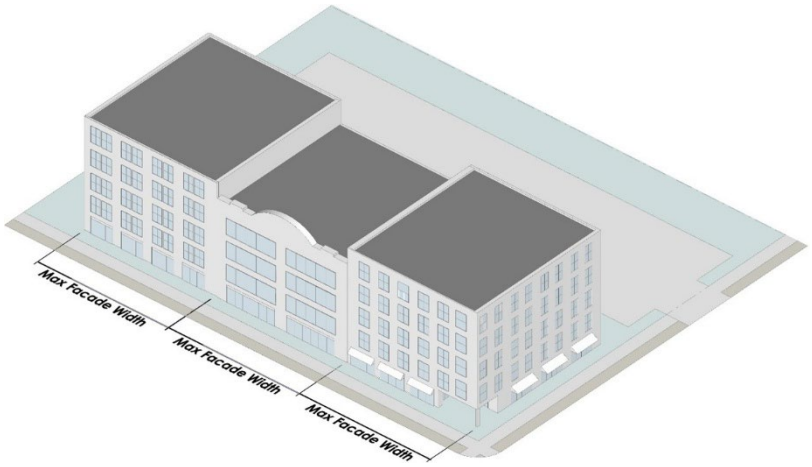
Section 8-4-9. Modulation

Buildings with blank or unmodulated facades parallel to public rights-of-ways should be avoided. The maximum building length without modulation shall be 100 feet. Modulation may be accomplished with one or a combination of the techniques described below:

(a) Recesses and projections should be used along the front facade to break up long expanses of wall planes.

(b) Rooflines can be modulated by alternating dormers, or using stepped roofs, gables, or other roof elements.

(c) Windows with awnings above the windows can be provided in a repeating pattern or at regular intervals, or bay windows can be used to achieve some modulation.



Section 8-4-10. Awnings and Canopies

(a) Encouraged. Awnings are encouraged for first floor uses to provide architectural interest.

(b) Coordination. Where awnings are used, they should be designed to coordinate with the design of the building.

(c) Frame and Material. Awnings should be constructed with a durable metal internal structural frame covered by fabric or canvas material. Metal awnings and canopies may be appropriate when integrated into shopping center designs.



(d) Colors. Awning colors should be neutral in appearance or compatible with the overall color palate of the building to which they are being affixed.

(e) Shape. The shape of an awning should be consistent with the shape of the window opening to which it will be applied.

(f) Vertical Clearance. No portion of an awning shall provide less than 8 feet vertical clearance from the ground surface.

(g) Depth and Width. Awnings shall be a minimum of 4 feet in depth. Awnings shall not extend beyond the width of the building or tenant space, nor encroach above the roof line or the story above.

Section 8-4-11. Colors

(a) The primary material color of buildings and accessory buildings and structures should be harmonious and compatible with the primary material colors of other buildings within the character district in which the building or structure is located.

(b) High-intensity or fluorescent colors shall not be used.

(c) Facade primary material colors should be low reflectance, subtle, neutral, or earth tone colors.

(d) Trim colors may be brighter than primary material color.

(e) All vents, gutters, downspouts, flashing, electrical conduits, etc., should be painted to match the color of the adjacent surface primary material, unless they are being used expressly as a trim or accent element.

(f) Accent colors may be used with discretion on the building's exterior.

Section 8-4-12. Architectural Lighting

(a) Finding. Well-designed and distinctive lighting of building facades is one of the best ways to attract attention and make a favorable impression with minimal investment. Building façade lighting can help enhance the intrinsic charm, beauty, and use of any given setting. Architectural lighting may include outlining, floodlighting, spotlighting, or any applicable combination of these techniques.

(b) Selectivity. The discrete lighting of a few key architectural features or details is preferred over uniform floodlighting of the entire building facade. Focal points can also be established through careful floodlighting of major buildings, with the lighting of secondary buildings keyed in turn to these focal points.

(c) Reflectivity. Highly polished surfaces such as glass, marble, glazed tile, glazed brick, porcelain enamel, and various metals can reflect the image of the light source. Designers should avoid lighting these reflective surfaces directly.

Section 8-4-13. Accessory Buildings

Accessory buildings should be substantially similar to the principal building in terms of material finish, color, and architectural detailing.

Section 8-4-14. Fences and Walls

(a) The design of fences and walls should be compatible with the architecture of the principal building and should use similar materials.

(b) All walls or fences 50 feet in length or longer, and 4 feet or more in height, should be designed to minimize visual monotony though changes in plane, height, material, material texture, or significant landscape massing.

CHAPTER 8-5 PEDESTRIAN RETAIL DESIGN GUIDELINES

Section 8-5-1. Purpose and Intent

This chapter provides guidelines for the architectural design of buildings and structures on individual sites which are appropriate in the more urban parts of the city and will be applied by the Community and Economic Development Department during the process of architectural design review as required by Chapter 8-2 of this ULDC. The guidelines of **Error! Reference source not found.** also apply in addition to those provided in this Chapter.

Section 8-5-2. Applicability

The architectural design guidelines of this chapter shall apply to all buildings and structures located within:

(a) The Central Business Zoning District;

(b) Midland Overlay.

(c) The central core character area.

(d) As may be appropriate in any other character areas as determined by the Director; these design guidelines are encouraged but not required in the suburban commercial character area.

Section 8-5-3. Pedestrian-scale Development

(a) Development should be designed with an emphasis on the street, sidewalk, and pedestrian access to the site and building.



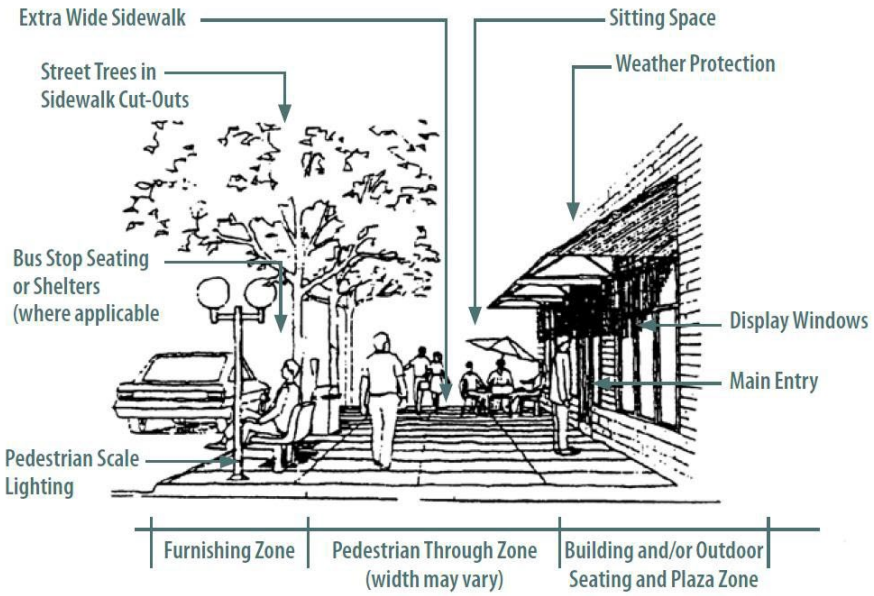
(b) Ground-floor uses should be reserved for nonresidential uses. Ground floor residential uses should not be permitted in buildings fronting the downtown square; provided, however, residential use of a ground floor may be authorized if it is not readily visible from the front of the building.

(c) Sidewalks in storefront commercial areas are pedestrian corridors where one wall is created by the unbroken line of commercial buildings abutting the sidewalk, and a second “perceived wall” is created by sidewalk fixtures such as benches, planting boxes, and street trees. In addition, a “perceived corridor ceiling“ is created by storefront.

(d) In areas with business storefronts, extra-wide sidewalks should be provided, along with a furnishing zone where street furniture may be placed and street trees planted.

(e) In the downtown core character area, sidewalk requirements shall consist of brick edging to match the Square’s sidewalk design.

(f) In the Central Business District, on-street parking spaces may be transformed into a public parklet with a wider sidewalk, plantings, and space for a range of activities like reading, relaxation, and outdoor dining, subject to review and approval by the Director.



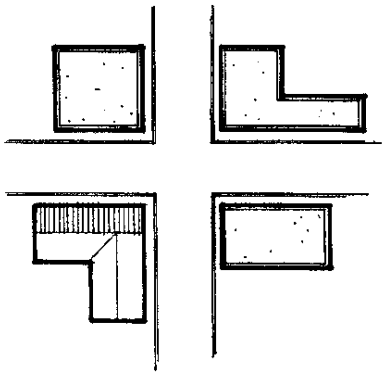
Source: City of Gainesville Preservation Manual and Design Guidelines.

Section 8-5-4. Building Placement

(a) Buildings should be placed close to streets internal to the development, or along public streets abutting the development area, as determined in the review and approval process.

(1) Buildings should be designed so that the main entrance is adjacent to and accessible from the street sidewalk.

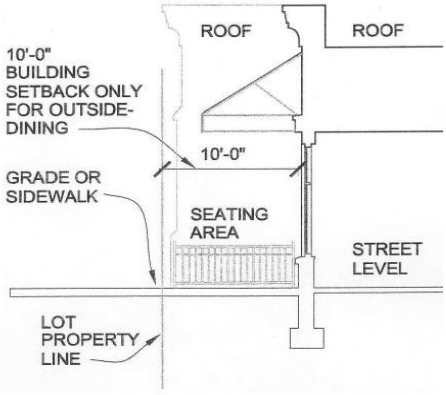
(2) The Director may establish a build-to line for the placement of the building to ensure compatibility and consistency with other buildings on the block face.



(b) Outdoor dining may be permitted for pedestrian retail areas subject to the following:

(1) For new development, the building should be at least 10 feet from the back of the adjacent sidewalk to provide appropriate seating area along the building frontage.

(2) For existing developments, outdoor dining may be permitted provided the adjacent sidewalk is not reduced to a width of less than 5 feet.



Section 8-5-5. Building Width

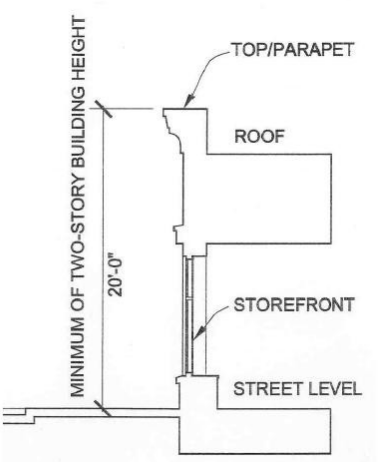
In pedestrian retail areas, buildings should provide storefronts at sidewalk level along the entire width of their property frontages. Exceptions to this guideline may be appropriate for designated alleyways or other service access ways, subject to the approval of the Director.

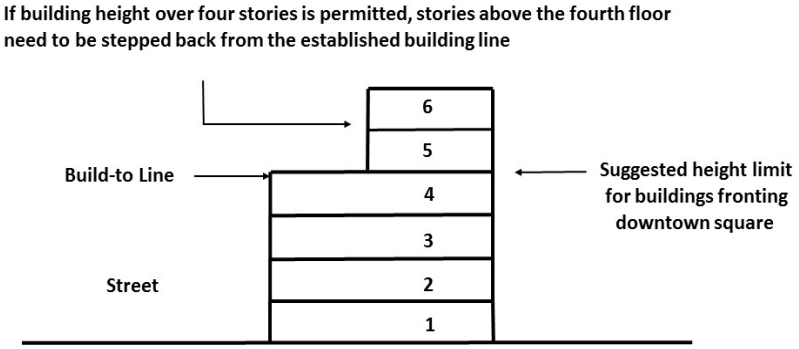
Section 8-5-6. Building Height

(a) A building designed for one story only should have the appearance of a two- story building; hence a single-story building should be a minimum of 20 feet height measured from the street level or top of curb.

(b) The height of a new building should be compatible with existing buildings on lots abutting the property on the block face (see Figure 8-10).

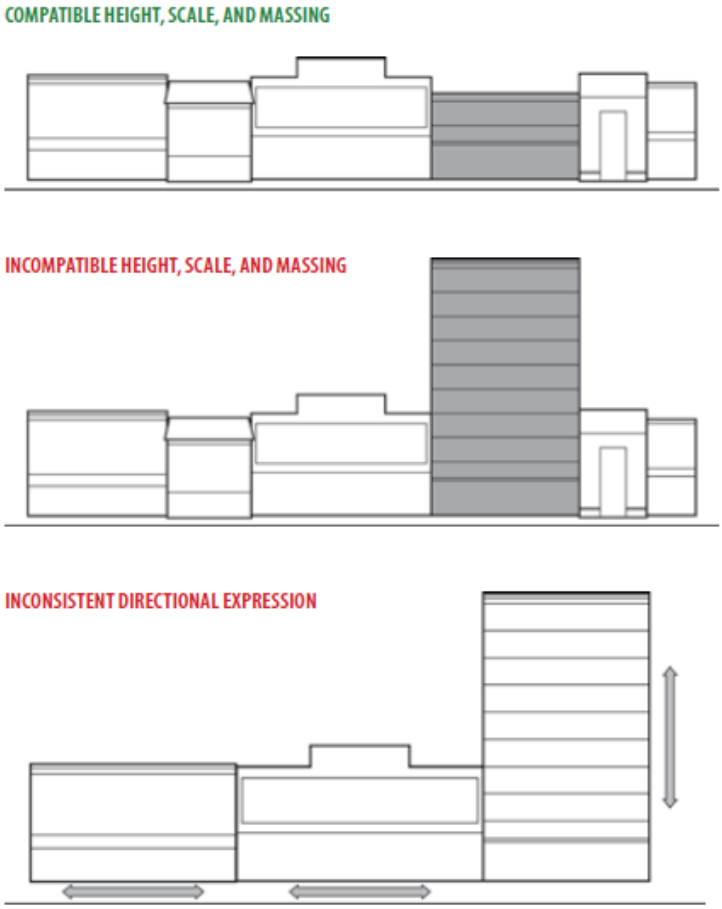
(c) Buildings fronting the downtown square should be limited to four stories in height; this guideline may be exceeded only if the fifth story and higher stories is/are stepped back from the established building line.





Building Step-Back (Side Elevation View)

Figure 8-10: Examples of Scale, Proportion, and Height



Source: City of Gainesville Preservation Manual and Design Guidelines.

Section 8-5-7. Cornices, Windows, and Entrances

(a) Storefront Cornices. Storefront cornices should be provided as horizontal decorative elements that extend across the width of the building and visually separate the storefront from the upper stories of the two-part commercial block.

(b) Storefront Display Windows. Storefront display windows are large areas of plate glass at the street level that provide an opportunity for pedestrians on the sidewalk to view the merchandise and activity taking place inside retail establishments. No less than 75% of the building frontage should be provided with glass windows and building entrance. Ground-story windows should not exceed 10 feet in height and should be no less than 3 feet above the sidewalk.

(c) Storefront Entryways and Doors. Commercial storefronts should feature recessed entryways that welcome provide shelter for pedestrians during inclement weather. Storefront doors should be glazed to allow light into retail areas and provide a means for pedestrians to view commercial activities taking place inside the building.

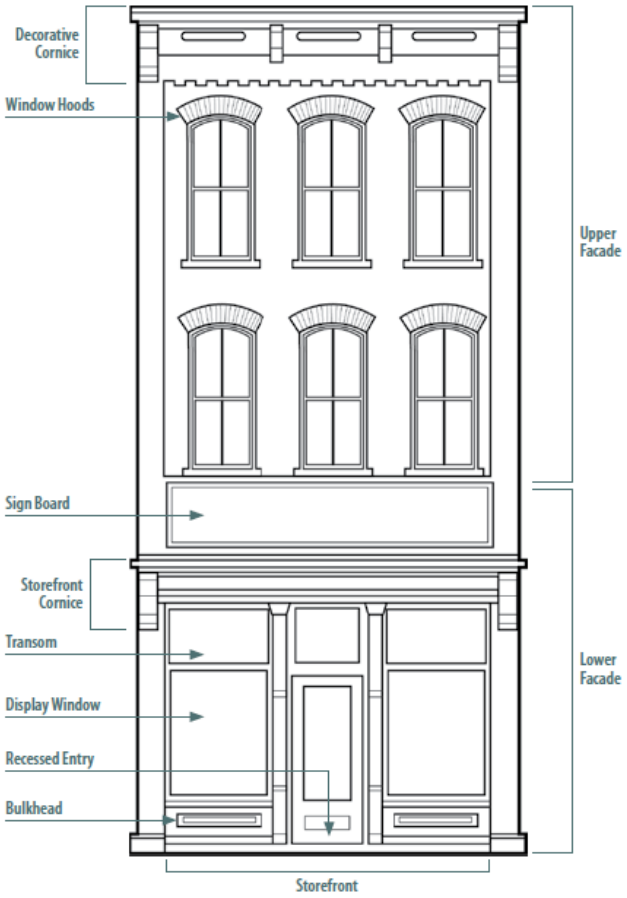
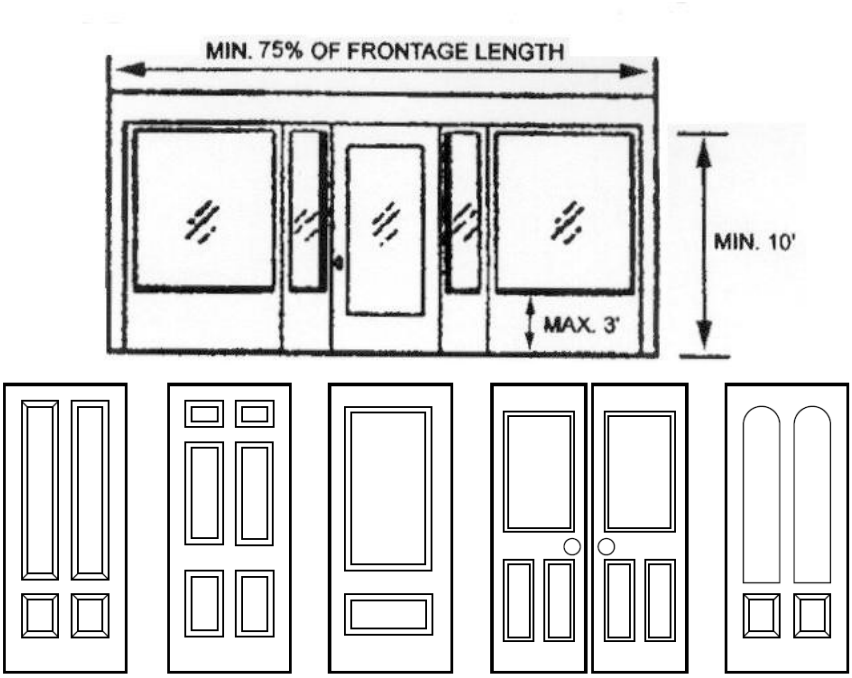


Figure 8-11: Recommended Practices for Doors (Commercial Storefront)

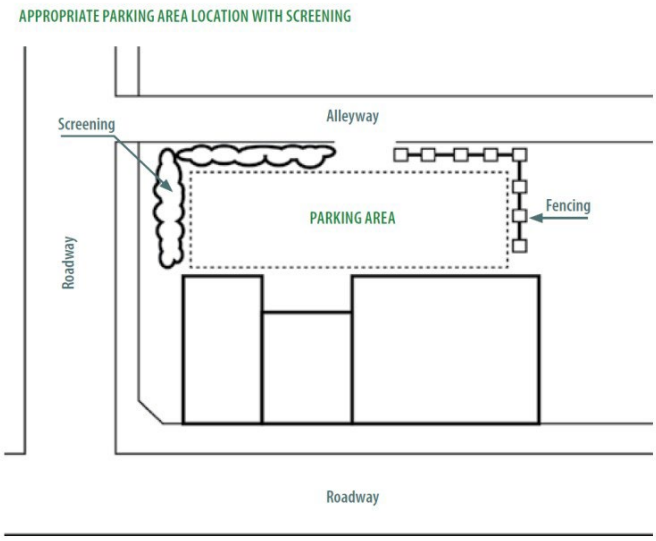


Source: City of Gainesville Preservation Manual and Design Guidelines.

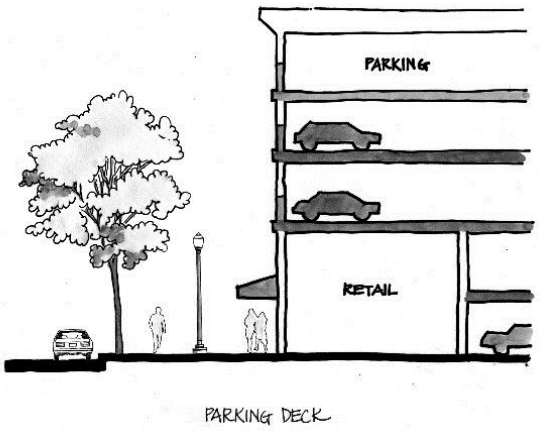
Section 8-5-8. Off-street Parking

(a) The physical and visual impact of new off-street parking areas and new off-street parking facilities within commercial storefront areas should be mitigated as much as possible.

(b) Evergreen landscape buffers and hedges should be located around the perimeter of parking lots with shade trees interspersed throughout the interior of the parking lot.



(c) Parking decks should adhere to all guidelines for new construction in a commercial storefront area in terms of building placement, massing, scale, and facade articulation. If possible, the street level facade of a new parking deck should provide retail storefront space to help it blend into the existing commercial environment.



Source: City of Gainesville Preservation Manual and Design Guidelines.

CHAPTER 8-6 DESIGN GUIDELINES FOR MIXED-USE AND OPEN SPACE

Section 8-6-1. Mixed-use Buildings

In districts where permitted, mixed-use buildings and mixed-use development should meet the following guidelines:

(a) Access to residential units. Residential uses above the first-floor retail or other nonresidential uses should have an entryway to each unit or a hallway serving one or more units which should connect to a stairway opening directly to the outside at street level. Every dwelling unit with a front facade facing a street should to the maximum extent possible have its primary or shared entrance face the street. All stairways should be enclosed.

(b) Private exterior area. All dwelling units above the first-floor retail or other nonresidential uses should have an exterior area, such as a balcony or porch, with a minimum of 80 square feet, and which affords maximum privacy to occupants.

(c) Signs. Windows above first-floor retail or other nonresidential uses should have no signs.

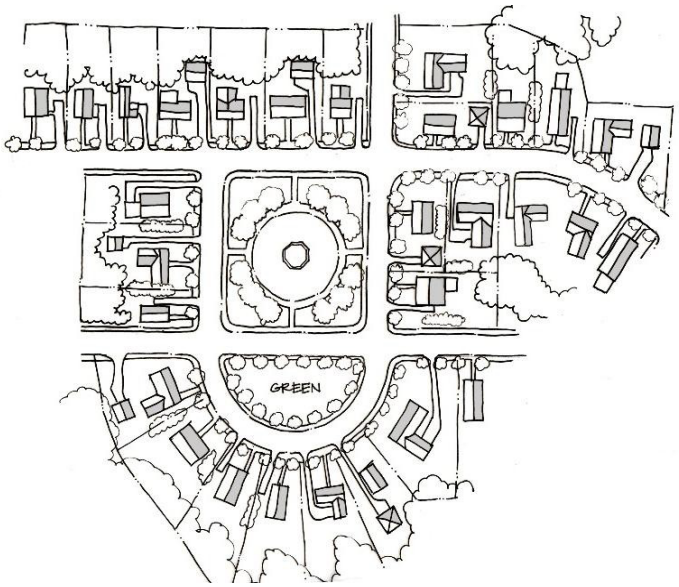
(d) Mailboxes. Residential uses above the first-floor retail or other nonresidential uses should not have outside mailboxes; inside mailboxes or mail slots should be used.

(e) Occupancy limits. Residential uses above first-floor retail or other nonresidential uses should not be rented on a daily or weekly basis and cannot be operated as rooming houses as defined by this ULDC.

Section 8-6-2. Open Spaces

(a) Open spaces, such as town greens and public squares, should be located and designed to add to the visual amenities of mixed-use developments, planned unit developments, suburban commercial, and office campus or office park developments.

Figure 8-12: Illustrative Provision of Square and Green in a Traditional Neighborhood Development



(b) Greens and squares should be spatially defined and distributed throughout the development so that no principal building is more than a walking distance of one 1,350 feet from a green, square, or park.

(c) In large developments with multiple buildings or lots, a mix of peripheral as well as internal green space should be provided.

(d) Residential development should be designed around active or passive neighborhood open spaces, which in turn should connect to adjacent open space networks or regional systems, where they exist or are planned.

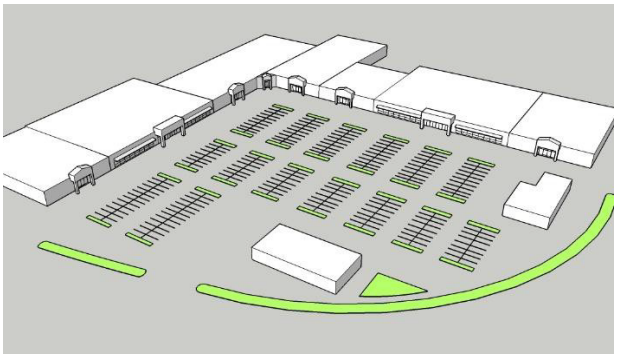
(e) Stormwater practices such as bioretention and bioswales may be incorporated into the landscaping in open spaces to serve both as treatment of runoff and as a public amenity.

CHAPTER 8-7 SHOPPING CENTER DESIGN GUIDELINES

Section 8-7-1. Purpose and Intent

Conventional, suburban-style layout of shopping centers result in auto-oriented development with expansive surface parking areas that are not pedestrian-friendly, lack open spaces, contribute to negative environmental impacts from stormwater runoff and should no longer be considered suitable for larger shopping centers in Gainesville. Instead, the city envisions more functionally appropriate shopping centers utilizing designs that resemble mixed-use developments, incorporate "main street"-type pedestrian retail character, cluster buildings to create activity centers, and integrate plazas and pedestrian places as central points of activity. Site design of shopping centers should focus on "placemaking," or creating a unique sense of place, as its primary design goal.

Figure 8-13: Conventional Shopping Center Layout Not Preferred in Gainesville



Section 8-7-2. Design Guidelines

Compliance with this section is encouraged for all shopping center development and is considered mandatory for shopping center sites with four or more acres of land designed to include 75,000 or more square feet of nonresidential uses, including any outparcels.

Figure 8-14: Illustrative Plaza or Gathering Space



(a) Developments should provide plazas or gathering places, especially where building breaks occur, by including design elements such as play areas, landscaping, street furniture, public art, better site design or low impact development for stormwater management, or other attractive features that improve functionality and introduce a pedestrian orientation.

(b) Benches should be provided near drop-off areas and entryways to major buildings and at key locations along pedestrian ways and within plazas. Consideration should be given to the location of benches with respect to the ability to provide shelter from summer sun and winds and be open to direct sunlight in the winter.

(c) Buildings should be arranged to create an internal street grid pattern. Building designs should frame and accentuate public spaces with pedestrian-scale elements and details. Pedestrian ways should be embellished with special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces.

(d) Buildings should be arranged to direct pedestrian views to parks and plazas. Buildings along roadways should provide a building scale of two stories or if single- story should be no less than 20 feet in height. Buildings, including those on outparcels, should be massed against the primary arterial or collector

roadways to create a "street wall" effect, with shared interior surface parking. No more than 40% of any parcel frontage should be open to a view of surface parking.

(e) Building lengths should not exceed 200 linear feet without a physical break or pedestrian access way connecting to surface parking to the rear of buildings. "Big box" stores should be articulated at a smaller pedestrian scale to disguise their mass.

(f) Architectural features should be incorporated on all sides of a building facade which face the primary entrance of an adjacent building, a public roadway, interior site amenities, and on any facade that is visible from public spaces.

(g) Drive-through windows and drive-through lanes should not be utilized and may be permitted only if the access drives are designed in a way that minimizes conflict with pedestrian travel which shall take precedence.

(h) Unique architectural components such as entryway structures and clock towers may be integrated into the design.

CHAPTER 8-8 SIGN DESIGN GUIDELINES

Section 8-8-1. Purpose and Intent

This chapter provides design guidelines for signage.

Section 8-8-2. Applicability

The sign design guidelines of this chapter shall apply to all buildings and structures located within:

(a) The Central Business Zoning District.

(b) The Midland Overlay.

(c) In the central core character area, and any other character area, as may be determined appropriate by the Community and Economic Development Department Director.

Section 8-8-3. Generally

(a) All signs should be of a design and include materials that are in keeping with the architectural design and exterior materials of the principal structure.

(b) Signs should be sized in proportion to the building. Notwithstanding the maximum areas allowed under the terms of the sign ordinance, an individual sign may be disapproved if it is found to be excessive or non-proportional in relation to the building on which it is placed or which it serves.

(c) Uniformity of size and lettering among properties in the same district or character area is desirable, to create a pleasing visual consistency.

Section 8-8-4. Materials

(a) Exposed surfaces of signs must be constructed of or appear to be constructed of metal, glass, stone, concrete, brick, cloth, or wood, or similar approved material. If synthetic materials are authorized, they shall have the same finished appearance as the materials specified here.

(b) Sandblasted wood signs are not prohibited but may or may not be considered appropriate.

(c) Plywood or unfinished wood is not an appropriate material for signs and shall not be permitted.

Section 8-8-5. Colors

(a) No individual sign should have more than four colors.

(b) Colors of signs should be coordinated with overall building colors.

Section 8-8-6. Placement of Wall Signs

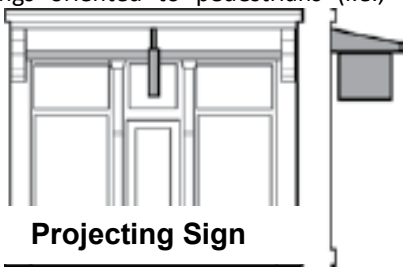
(a) Wall signs should be located on flat, unadorned parts of the building facade, above storefront display windows and below second-story windows, where such features exist.

(b) If the building facade or storefront has a lintel strip or signboard, the wall sign should be placed directly on it. Wall signs should be located centrally on the facade. Sign boards should not exceed 30 inches in height.



Sign Board

(c) Projecting signs and signs suspended from canopies and awnings oriented to pedestrians (i.e., perpendicular to the wall surface of a building) should be permitted and are encouraged, provided they are constructed to be compatible in material and appearance with the building.



Projecting Sign

ARTICLE 9 USE PROVISIONS

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CHAPTER 9-1 GENERAL

Section 9-1-1. Classification of Uses.

(a) General.

No land, building, structure, or water shall be used except in accordance with this section and for a use permitted in the district in which it is located.

(b) Principal Uses.

In order to regulate a variety of similar uses, use categories are hereby established for principal uses. Use categories provide a systematic basis for assigning uses to appropriate categories with other, similar uses. Principal uses and activities are categorized based on common functional, product or physical characteristics.

(1) Where a use category contains a list of included uses, the list is to be considered examples uses and not all inclusive. The Director has the responsibility of categorizing all uses.

(2) The use table in Chapter 9-2 establishes permitted uses by zoning district.

(3) Permitted uses may be further restricted as specified in Article 7 (Overlay Districts).

(4) Definitions for principal uses are specified in the use table in Chapter 9-2.

(5) Use standards for principal uses, as applicable, are specified in Chapters 9-4 through 9-9.

(c) Accessory Uses.

(1) An accessory use is any use or structure that is permitted on a property in conjunction with a principal use. An accessory use is incidental to the principal use and would not exist independent of the principal use.

(2) Accessory uses must be constructed concurrently with or after a principal use.

(3) The use table in Chapter 9-2 establishes permitted accessory uses by zoning district.

(4) Definitions for accessory uses are specified in the use table in Chapter 9-2.

(5) Use standards for accessory uses, as applicable are specified in Chapter 9-10.

(d) Temporary Uses.

(1) A temporary use is a use that is in place for a limited period of time only.

(2) The use table in Chapter 9-2 establishes permitted temporary uses by zoning district.

(3) Definitions for temporary uses are specified in the use table in Chapter 9-2.

(4) Use standards for temporary uses, as applicable, are specified in Chapter 9-11.

Section 9-1-2. Principal Uses Not Listed.

(a) A permitted use not specifically listed is prohibited unless the Director determines it to be a part of a use category as described in this ULDC. The following information must be provided for classification of a use not specifically listed.

(1) The actual or projected characteristics of the proposed use.

(2) The relative amount of site area or floor area and equipment devoted to such use.

(3) Relative amount of sales.

(4) The customer type.

(5) The relative number of employees.

(6) Hours of operation.

(7) Building and site arrangement.

(8) Types of vehicles used and their parking requirements.

(9) The number of vehicle trips generated.

(10) How the proposed use is advertised.

(11) The likely impact on surrounding properties.

(12) Whether the activity is likely to be found independent of the other activities on the site.

(b) Where a use not listed in a use table is found by the Director not to be similar to any other permitted use, the use is only allowed following a text amendment to this ULDC per Chapter 18-8.

Section 9-1-3. Accessory Uses Not Listed.

(a) An accessory use not specifically listed is prohibited unless the Director determines the accessory use:

(1) Is clearly incidental to and customarily found in connection with an allowed principal use;

(2) Is subordinate to and serving an allowed principal use; and

(3) Is located on the same lot as the principal use served.

Section 9-1-4. Permitted Use Table Key.

(a) The following applies to the use table found in Chapter 9-2.

(1) Permitted Use (P). Indicates a use is permitted in the respective district. The use is also subject to all other applicable requirements of this ULDC.

(2) Special Use (SU). Indicates a use may be permitted in the respective district only where approved by the Governing Body in accordance with Chapter 18-2. Uses permitted by special use are subject to all other applicable requirements of this ULDC, including any applicable use standards, except where modified by the Governing Body as a part of the approval.

(3) Use Prohibited. An empty cell indicates that a use is prohibited within the respective district.

CHAPTER 9-2 USE TABLE

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Residential Uses														
All household living, as listed below:													Occupancy of a dwelling by a household.	
Single-family dwelling, detached	P	P	P	P	P	SU	SU						A site-built residential building, or a single-family residential industrialized building, designed for occupancy by one household. Each dwelling shall be located on its own lot. This term does not include manufactured homes or mobile homes.	Section 9-4-1(a)
Single-family dwelling, attached				P	P	SU	SU						A building containing three or more attached dwelling units under fee simple or condominium ownership.	Section 9-4-1(b)
Live-work					SU	SU	SU	P					A dwelling unit that includes nonresidential activity conducted wholly within the unit that allows employees, customers, clients, or patrons to visit.	Section 9-4-1(c)
Multi-family dwelling				P	P	SU	SU	P					A building or lot occupied exclusively by three or more households with separate facilities for each household. This term includes attached residential condominiums and apartments.	Section 9-4-1(d)
Two-family dwelling				P	P	SU	SU						A building designed or arranged to be occupied by two households living independently of each other. Includes two dwellings on one lot or attached dwellings.	Section 9-4-1(e)
Relocated residential structure	P	P	P	P	P								A detached, site-built single-family dwelling or single-family residential industrialized building that is moved or disassembled into more than one structure and moved to another site, whether temporarily or permanently.	Section 9-4-2

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
All group living, as listed below:													Residential occupancy of a structure by a group of people which does not meet the definition of household living. Generally, group living facilities have a common eating area for residents, and residents may receive care or training.	
Continuing care retirement community				SU	SU	SU	SU	P	P	P			A residential facility providing multiple, comprehensive services to older adults. Such facilities normally contain a combination of independent living units, assisted living, and skilled nursing care units.	Section 9-4-3(a)
Crisis center				SU	SU	SU	SU	SU	SU	P	P	P	A facility, or portion thereof, and premises that are used for the purposes of emergency shelter or crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility may include meal preparation, distribution, or service for residents of the center as well as nonresidents, merchandise distribution, or shelter, including boarding, lodging, or residential care. This term includes domestic violence centers, homeless shelters, and halfway houses.	
Dormitory, fraternity or sorority house					SU	SU	SU	SU					Group living officially affiliated with but not operated by an accredited college or university, private school, or religious institution.	
Group home				SU	SU	SU	SU	SU	SU	P			A single household of five or more unrelated persons with or without disabilities, regardless of whether they are under the supervision of a resident manager.	Section 9-4-3(b)
Institutionalized residential living				SU	SU	SU	SU	SU	P	P			An umbrella term that encompasses the following uses: assisted living facility, convalescent home, personal care home, intermediate care home, nursing home, and skilled nursing care facility.	Section 9-4-3(c)

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Maternity supportive housing	P	P	P	P	P	P	P	P	P	P			A residential home holding a valid registration certificate from the State of Georgia as a maternity supportive housing residence that houses, on behalf of a non-profit organization, up to 6 pregnant women aged 18 years or older and their minor children at any one time during the woman's pregnancy and up to 18 months after childbirth, provided, however, that no medical services may be provided. This term does not include: i. A child welfare agency as defined in O.C.G.A. § 49-5-12; ii. The residential home of a relative in which a woman receives maternity care; or iii. A general or special hospital.	
Rooming house				SU	SU	SU	SU	SU	SU	P			A site-built single-family dwelling unit or single-family residential industrialized building within which a resident family or manager offers lodging or lodging and meals to two or more unrelated adults in exchange for monetary compensation or other consideration.	Section 9-4-3(d)
Public and Institutional Uses														
Place of worship	P	P	P	P	P	P	P	P	P	P	P	P	A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services. This term includes churches, synagogues, temples, and other places of worship.	Section 9-5-1

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Club or lodge, private	SU	SU	SU	SU	SU	P	P	P	P	P	P	P	A building or premises, used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Includes places of assembly for organizations like Elks, Kiwanis, Veterans of Foreign Wars, Rotary Clubs, and for youth activities. The term does not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.	Section 9-5-2
Museum, art gallery or library, private						P	P	P	P	P	P	P	A privately owned facility having significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of books, natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended and designed to be viewed by members of the public, with or without an admission fee, and which may include as an accessory use the sale of goods to the public or as gifts or for their own use.	
Parks and open space, as listed below													Uses focusing on natural areas for use by the public for passive or active outdoor recreation.	
Cemetery		SU	SU	SU	SU					P	P	P	The use of property as a burial place for human or animal remains. Does not include cremation services.	
Conservation area	P	P	P	P	P	P	P	P	P	P	P	P	Any area set aside for conservation of the land in its natural state.	
Golf course	SU	SU	SU	SU									A tract of land laid out with at least 9 holes for playing golf and improved with tees, greens, fairways, and hazards. May include a country club or driving range as an accessory use. Does not include miniature golf.	

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Marina										SU	P	P	A facility for the mooring, berthing, storing, or securing of watercraft. May include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales, boat and jet ski rental, and other uses clearly incidental to watercraft activities.	
Park, plaza, or square	P	P	P	P	P	P	P	P	P	P	P	P	A property used for noncommercial outdoor assembly, enjoyment, play, recreation, or natural resource protection. Often includes seating, walking paths, trails, recreational equipment, fields and courts used for sports, and swimming pools. Such uses may include food or recreational sales accessory to the primary use.	
Private education facility, as listed below													Privately owned and operated facility that provides educational services to students.	
General private education	P	P	P	P	P	P	P	P	P	P	P	P	A private educational use for students at the pre-kindergarten, elementary, middle, or high school level, which has a curriculum at least equal to a public school within the state of Georgia.	
College or university, private						P	P	P	P	P	P	P	A private education use that provides post-secondary education to students. Typical examples include colleges or universities, community colleges, seminaries, and artistic or vocational schools.	
Commercial school						P	P	P	P	P	P	P	A private educational institution that is affiliated with a commercial or industrial use and teaches skills using heavy machinery; conducts a commercial enterprise, such as a driving school; or a similar school that does not offer a complete education curriculum.	

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Public use	P	P	P	P	P	P	P	P	P	P	P	P	Any building, structure, or use owned or operated by the federal government, state of Georgia, Hall County or other County, the City of Gainesville, another municipality, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, including but not limited to the following: government administrative buildings; public colleges or universities; trade school; public schools; post offices; police and fire stations; publicly operated libraries and museums; public health facilities and public hospitals; public works facilities; parks and community centers; airports; water and sanitary sewerage intake, collection, pumping, treatment, storage facilities; emergency medical facilities; and public jail or correctional facilities.	
Utilities	P	P	P	P	P	P	P	P	P	P	P	P	Uses that distribute utility services such as electricity, gas, sewer, water, cable and internet.	Section 9-5-3
Towers and wireless telecommunication facilities								SU	SU	SU	P	P	A structure, facility or location designed or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes new and existing support structures, replacement support structures, collocations on existing support structures, attached wireless telecommunications facilities and concealed wireless telecommunications facilities.	Chapter 9-6
Commercial Uses														
Adult entertainment establishment											SU	SU	Any establishment or use of land or a structure for an Adult Entertainment Establishment as regulated and defined under Chapter 6-10 of the Code of Ordinances of Gainesville.	Section 9-7-1

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Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
All commercial recreation, indoor, except as listed below							SU	P	P	P	P	P	A facility where activity occurs within an enclosed building that involves the provision of sports, entertainment, and leisure activities to the public for a fee. Typical examples include arcades, billiards, bowling alleys, concert halls or auditoriums, games rooms, skating rinks, theaters, and play centers or trampoline parks.	Section 9-7-2
Health or fitness club							P	P	P	P	P	P	An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise, through facilities for exercise including but not limited to running and jogging tracks, exercise equipment, game courts, gymnasium, or swimming facilities. The term includes establishments designated as "reducing salons," "exercise gyms," "health studios," "health clubs," "fitness studios," "day spa," and other terms of similar import. This term may include other ancillary uses within the establishment such as massage therapy, tanning salons, nail salons, fitness apparel and prepackaged food.	
School of the arts						P	P	P	P	P	P	P	An educational facility not operated by a governmental agency that offers or provides instruction in dance, singing, music, painting, sculpting, fine arts, or martial arts.	

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Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
All commercial recreation, outdoor, except as listed below									SU	SU	SU	SU	An entertainment or recreational use that involves the provision of sports and leisure activities to the general public for a fee, and which all or part of the activities occur outside of a building or structure. Typical examples include amusement or water parks, stadiums, amphitheaters, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, racetracks for animals or motor-driven vehicles, archery ranges, outdoor shooting ranges, fish ponds, botanical and zoological gardens, camps or campgrounds, and recreational vehicle parks.	Section 9-7-3
Camp or campground									P	P	P	P	Any place established or maintained for two or more individual spaces or sites for temporary occupancy in cabins or similar structures or tents for a fee. Some facilities may offer temporary access to utilities such as water, sewage disposal, electricity, or other services for use by recreation vehicles. Accessory uses or facilities may be provided on site including management offices, community facilities for sanitation or recreation, and commercial uses for essential goods or services for exclusive use by patrons. Does not include camps or campgrounds in which recreational vehicle spaces are provided.	
Outdoor shooting range											SU	SU	An outdoor facility where the firing of firearms is permitted to practice marksmanship.	Section 9-7-3(i)
Racetrack									SU	SU	SU	SU	An outdoor facility used for the racing of vehicles or animals.	Section 9-7-3(j)

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Recreational vehicle park										SU	SU	SU	Any facility for which two or more individual spaces or sites for temporary occupancy in recreational vehicles for a fee. Facilities generally offer temporary access to utilities such as water, sewage disposal, electricity, or other services for use by recreation vehicles. Accessory uses or facilities may be provided on site including management offices, community facilities for sanitation or recreation, and commercial uses for essential goods or services for exclusive use by patrons. Includes any camp or campgrounds in which recreational vehicle spaces are provided.	
Commercial Parking						SU	SU	P	P	P	P	P	A use providing vehicle storage and parking as a principal use, regardless of whether a fee is charged. Commercial parking may occur in a parking structure or surface lot.	Section 9-7-4
Day care center				SU	SU	P	P	P	P	P	P	P	A facility that regularly provides care services to 7 or more children or adults away from their residence for less than 24 hours a day. Includes childcare center, pre-kindergarten, preschool, play school, nursery school, drop-in center, and adult day care center. This does not include other public or private education uses or group living uses.	Section 9-7-5
All eating and drinking, except as listed below:					SU		P	P	P	P	P	P	A facility that prepares and sells food and drink for on- or off-premise consumption. Typical examples include bars, taverns or pubs, brewpubs, coffee, tea or juice shops, drive-in restaurants, restaurants, and yogurt or ice cream shops.	
Brewpub							SU	P	P	P	P	P	An eating or drinking establishment, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36, in which beer or malt beverages are manufactured or brewed for on-site retail consumption in draft form.	Section 9-7-6(a)

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Drive-in restaurant								SU	P	P	P	P	An otherwise allowed eating and drinking use where customers park and remain in their vehicles while receiving service by an employee of the establishment. Does not include a facility which provides dedicated parking spaces for customers to receive a single pick-up order which does not involve continual service.	
Event facility, except as listed below					SU	SU	SU	SU	SU	SU	SU	SU	An independent facility, assembly hall, or restaurant event space with an occupancy load of 100 patrons or more leased for the purpose of holding private parties or special events including but not limited to weddings, birthdays, conferences, and similar events. This term excludes an accessary special event facility that is part of a religious institution, educational facility, hotel, community recreation facility, or nonprofit club or lodge.	Section 9-7-7
Retreat center								P	P	P	P	P	A facility used for professional, educational, or religious meetings, conferences, or seminars and which may provide meals in a single building, lodging, and recreation for participants during the period of the retreat or program only. Such facility may not be utilized for the public for meals or overnight accommodation. Housing is usually in lodges, dormitories, sleeping cabins or other such temporary quarters, which do not contain kitchens.	
Lodging, as listed below:													A facility offering overnight accommodation to the public for a fee for stays of less than 30 days.	
Bed and breakfast inn					SU	P	P	P	P	P	P	P	A business establishment operated within a dwelling by the owner-occupant, offering temporary lodging and one or more meals to the traveling public.	Section 9-7-8(a)
Hotel or motel								P	P	P	P	P	A facility offering overnight accommodation to the public for a fee on a daily basis for stays of less than 15 days.	Section 9-7-8(b)

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Hotel or motel, extended stay										SU			A facility offering overnight accommodations to the public for a fee for stays of more than 15 but less than 30 days in one or more rooms within the same facility, with provisions for living, sanitation, sleeping and fixed cooking appliances.	Section 9-7-8(c)
Short term rental					P			P	P	P	P	P	The occupancy of all or a portion of a residential structure, rented to the public for a fee for the purpose of overnight lodging for a period not more than 15 days. Includes Airbnb, VRBO, and similar lodging accommodation platforms.	
Medical, as listed below:													A facility providing medical, surgical, or dental care to patients. Some facilities may include overnight care.	
General medical					SU	P	P	P	P	P	P	P	Medical uses that administer human health care in a non-hospital, outpatient setting. Typical examples include medical office or clinic, dental office or clinic, acute care facility, ambulatory care facilities, optometrist, orthodontist, physical therapy office, surgical outpatient facility, urgent care, dialysis center, and blood bank.	
Hospital						P	SU	SU	SU	P	P	P	An institution licensed by the state and providing primary in-patient health services and medical or surgical care to persons and including as an integral part of the institution related facilities such as emergency care, laboratories, outpatient facilities, or training facilities.	
Medical laboratory									SU	P	P	P	A use that conducts medical research or testing and examining of materials derived from the human body for the purpose of providing information on diagnosis, treatment, mitigation, cure or prevention of disease. Includes dental laboratories.	

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Mixed-use building					P	P	P	P					A building designed, planned and constructed as a unit, used partially for residential use and partially for office, personal service, retail, entertainment or public uses.	
All office, except as listed below:					P	P	P	P	P	P	P	P	A use in a private or co-working setting wherein business, professional, or financial services are conducted without on premise retail sales. Typical examples include engineering, consulting, and CPA establishments.	
Bank or financial establishment						P	P	P	P	P	P	P	A business that accepts money for deposit into accounts from the general public or other financial institutions, and which may include personal or business loans, wire transfers and safe deposit boxes. Such uses include but are not limited to banks, savings and loan institutions and credit unions, and security and commodity exchanges. This use does not include alternative financial services.	
Radio, film, recording, and television studios						SU	P	P	P	P	P	P	A facility in which video, radio or sound production takes place, either for live broadcasting or for the acquisition of raw footage for postproduction.	
All personal service, except as listed below:					SU	SU	P	P	P	P	P	P	A facility or establishment involved in the provision of personal service or repair services to the public. Typical examples include barber, beauty, hair, or nail shop or salon, catering service, laundry and dry cleaning facilities, massage therapy, tailor, milliner or upholsterer, and repair of consumer goods such as appliances, jewelry or watches, computers, televisions or similar items.	Section 9-7-9

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Animal care, indoor						SU	SU	SU	P	P	P	P	A facility designed or arranged for the care of animals without any outdoor activity, except for pet elimination areas. Includes grooming, animal hospitals, veterinary clinics, boarding, shelter, and doggy day care. May include accessory sale of products such as pet foods, leashes, collars, and similar animal care products.	Section 9-7-9(a)
Animal care, outdoor						SU	SU	SU	P	P	P	P	A facility designed or arranged for the care of animals and includes outdoor activity or outdoor activity areas. Includes grooming, animal hospitals, veterinary clinics, boarding, shelter, and doggy day care. May include accessory sale of products such as pet foods, leashes, collars, and similar animal care products.	Section 9-7-9(b)
Body art studio							SU	P	P	P	P	P	Any establishment whose principal business activity is performing the practice of physical body adornment by using the techniques of body piercing or tattooing. Does not include ear piercing or body painting with pigments that are temporary in nature.	
Funeral home, mortuary, or mausoleum							SU	SU	SU	P	P	P	A building or facility used for human funeral services. May contain a chapel and facilities for embalming and the performance of other services used in the preparation of the dead for burial or cremation, the performance of autopsies and other surgical procedures, the indoor storage of caskets, funeral urns, and other related funeral supplies, or the indoor storage of funeral vehicles.	
Psychic, fortune teller										P	P	P	Any establishment involved in the practice of fortune telling, astrology, phrenology, palmistry, clairvoyance, or related practices for a fee or donation.	
All retail sales, except as listed below:							P	P	P	P	P	P	A facility offering goods and products for sale, lease, or rental to the public for personal or household consumption.	

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Alternative financial services										P	P	P	A retail use offering high interest short-term loans or check cashing services. Also includes establishments which offer, in the regular course of business, a "pawn transaction" as defined in O.C.G.A. § 44-12-139 as it exists or as it may be amended. Includes check cashing, pawnshop, payday lending, precious metal and gem dealers, and title loan centers.	
Artisan Workshop					SU		P	P	P	P	P	P	A retail facility or use which provides workspaces for artists or artisans and may include the production of handcrafted products manufactured without the use of heavy machinery. Includes art studios; ceramic manufacturing; glass blowing; jewelry manufacturing; metalwork; musical instrument manufacturing; leatherwork; cabinetry or furniture manufacturing; and similar uses.	Section 9-7-10(a)
Consumer fireworks sales											P	P	Shall have the same meaning as provided for by the National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, latest edition (NFPA 1124).	

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Hookah or vapor shop									SU	SU	SU	SU	Retail sales of all alternative nicotine products and non-traditional tobacco paraphernalia including but not limited to hookah, vapes, vape pens, e-liquids, e-cigarettes, and bongs. Does not include the retail sale of such products when accessory to a convenience store or other retail establishment. For the purposes of this definition, "alternative nicotine products" shall mean any product or device that employs an electronic heating element, electronic circuit, power source, battery, or other electronic, chemical, or mechanical means to produce a vapor that delivers nicotine to the person inhaling from the device, including electronic cigarettes, electronic cigars, electronic pipes, electronic bongs, and electronic hookahs and, whether manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, or electronic pipe.	
Hookah and vapor consumption											SU	SU	Any use involving the sale and on-premise consumption of alternative nicotine products, vape juice, or both.	Section 9-7-10(b)
Ice vending machine, commercial									SU	SU	SU	SU	An automated commercial ice vending machine designed to produce, store and dispense ice to customers on demand, usually in public or commercial locations. The machine operates 24/7 and allows users to purchase ice in various quantities.	Section 9-7-10(c)

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Open air sales										P	P	P	Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries and garden centers and garden supply stores, landscaping companies, lumber and building material yards, outdoor flea markets, statuaries and monument sales establishments, petroleum dealers and tank sales.	
Self-service storage facility										SU	P	P	A facility which offers secure self-storage for goods in individual rooms, compartments, lockers, or containers, and which are leased or rented on an individual basis to businesses and residents for temporary storage needs. No commercial transactions or activities take place other than the incidental sales of products associated with the use of the facility such as boxes, packaging supplies, and similar products. Includes mini-warehouse and climate-controlled storage facilities.	Section 9-7-11
Vehicular, as listed below:													A use or facility that sells, rents, leases, services, or repairs motorcycles, passenger vehicles, commercial vehicles, recreational vehicles, and heavy equipment.	
Car wash							SU		P	P	P	P	An establishment or facility that cleans and details vehicles.	
Fuel sales							SU		P	P	P	P	A facility for the dispensing and distribution of vehicle fuels, with or without a retail convenience store.	Section 9-7-12(a)
Truck stop										P	P	P	An establishment engaged primarily in the fueling, servicing, repair, or parking of heavy trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck drivers.	Section 9-7-12(b)

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Vehicle rental, truck or trailer									SU	P	P	P	An establishment offering, for rental, the temporary use of a commercial truck or trailer for moving or hauling. Including but not limited to U-Haul, Ryder, Budget, and Penske truck and trailer rentals.	
Vehicle sales or leasing, new									SU	P	P	P	A facility where a manufacturer-authorized business or dealer engages in the sale or lease of new and used automobiles, trucks, tractors, trailers, boats, recreational vehicles, campers, motorcycles, and other motorized vehicles where most of the sales inventory is new. Includes agricultural implements and equipment.	Section 9-7-12(c)
Vehicle sales or leasing, used									SU	P	P	P	A facility that sells or leases used vehicles where a majority of the inventory is pre-owned, leased, or second-hand vehicles.	Section 9-7-12(d)
Vehicle service and repair, minor									P	P	P	P	A facility where minor vehicle repair and service is conducted, including alarm installation, custom accessories, emissions testing, oil and lubrication service, minor scratch and dent repair, and glass repair or replacement.	Section 9-7-12(e)
Vehicle service and repair, major									SU	P	P	P	A facility used for the major servicing and repair of vehicles including body repair and paint shops, transmission and engine repair, and tires sales and repair.	Section 9-7-12(f)
Industrial Uses														
Aircraft landing area										SU	SU	SU	Any landing area, runway, or other facility designed, used, or intended to be used for the departure or arrival of aircraft and which may include aircraft storage, tie-down areas, hangars, and other necessary buildings and appurtenances. Includes private use heliports. May be a principal or accessory use.	Section 9-8-1

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All heavy industrial, except as listed below											SU	P	Industrial and manufacturing uses which primarily occur outdoors and which typically result in significant heat, noise, sound, vibration, odors or particulates. Often includes the use of dangerous or harmful chemicals, highly combustible or flammable materials, liquids, or gas, and the use of hazardous, radioactive, or explosive materials. Typical examples include borrow sites, bulk storage, food processing plants, resource extraction including mining or quarrying, and sawmills.	
Borrow site											P	P	A site used for the extraction of earthen materials such as sand, gravel, rock, dirt, etc. where the material is removed from the site. Includes the leveling, scraping, or reducing of a hill or rise of land, as well as the digging of a pit, hole, depression or valley.	Section 9-8-2(a)
Food processing plant												P	A manufacturing establishment producing or processing foods and food by-products for human or animal consumption, including but not limited to the following products: sugar, dairy, fruit and vegetable (including canning, preserving and processing), grain mill products and by-products, meat, poultry and seafood, and miscellaneous food preparation from raw products. Does not include the slaughtering of animals.	Section 9-8-2(b)
Resource extraction, mining or quarrying												SU	The extraction of minerals or solid materials from the ground. Such materials may be stored on site or transported to another location. This term includes gravel pits; mines or quarries; and similar operations.	Section 9-8-2(c)
Sawmill											SU	P	A facility where logs or partially processed wood are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products. This term does not apply to the processing of timber for use on the same lot by the owner or occupant of that lot.	

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
All light industrial, except as listed below											P	P	A facility used for manufacturing, processing, fabrication, packaging or assembly of prefabricated parts, consumer electronics, computers, appliances, optical devices or instruments, medical or surgical instruments, non-alcoholic beverages, cosmetics, clothing or shoes, printed or photographic materials, signs, or small automotive parts; welding or machine shops; industry laundries; exterminators; cold storage; and similar uses as determined by the Director.	
Brewery, winery, or distillery											SU	P	A facility where beer, malt beverages, distilled spirits, or wine are produced on the premises and then sold or distributed for off-premise consumption. The retail sale of beverages manufactured on site is permitted. May include accessory uses such as event facilities and restaurants.	Section 9-8-3(a)
Research and development											P	P	A facility used for the research and development of new products or for scientific research intended for manufacture, production, or sale of products elsewhere. Includes laboratories, offices and other facilities used for research and development; prototype production facilities which manufacture a limited amount of product for investigation into the merits of such product; or pilot plants used to test manufacturing processes to be utilized in production elsewhere.	
All storage lots or yards, except as listed below									SU	P	P	P	A facility used for the outdoor storage of material, equipment, or vehicles for a period exceeding 24 hours, and any structures associated with the outdoor storage. Typical examples include construction storage yard, lumberyard, equipment yard, vehicle storage lot, and wholesale greenhouse or nursery. May involve the sale or rental of items stored.	

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Impound lot											SU	P	A facility used for the secure, temporary storage of vehicles which have been removed from private property for reasons of trespassing or abandonment. May include wrecked motor vehicle compounds.	Section 9-8-4(b)
Truck yard											SU	P	A facility for the temporary parking or storage of heavy trucks which are in active use.	Section 9-8-4(c)
All warehouse and distribution, except as listed below										SU	P	P	A facility or use involved in the storage or movement of goods, products, supplies, and equipment for themselves or other entities. There is little or no on-site sales activity when customers are present. Office uses are customarily provided as accessory to the warehouse and distribution use.	
Data center											SU	SU	A facility used primarily for the storage, management, processing, and transmission of digital data, housing computer and network equipment, systems, servers, appliances, and other associated components related to digital data operations. May include accessory utility infrastructure such as air handlers, power generators, water cooling and storage facilities, utility substations, and similar infrastructure necessary to the operation as a data center.	Section 9-8-5(a)
All waste related services, except as listed below												SU	A facility which receives solid or liquid waste from others for disposal on the site or for transfer to another location, uses that collect waste, or uses that manufacture or produce goods or energy from the composting of organic material.	

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	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Composting facility											SU	SU	A facility where compost or organic matter that is derived primarily from off-site is processed by composting and processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.	
Junk or salvage yard												P	A place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.	Section 9-8-6(a)
Landfill, construction and demolition												SU	A facility that accepts waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings, and other structures. Such wastes include but are not limited to wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material and other inert wastes which have a low potential for groundwater contamination.	Section 9-8-6(b)
Recycling center											P	P	Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including but not limited to, plastics, glass, paper and aluminum materials.	
Solid waste transfer facility											SU	P	A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.	

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Wholesale trade										P	P	P	An establishment engaged in the selling or distribution of merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers for resale, rather than end consumers for direct consumption.	
Agricultural Uses														
Agriculture	SU												Farming, including plowing, tilling, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products; aquaculture; sod production; orchards; Christmas tree plantations; nurseries used primarily to cultivate trees, shrubs, flowers or other plants; and the cultivation of products as part of a recognized commercial enterprise. This term specifically includes "horticulture," or the growing of fruits, vegetables, herbs, flowers or ornamental plants. Does not include the keeping of horses or livestock.	
Livestock	SU												Any building or structure which surrounds or is used to raise, breed (husbandry), house, shelter, care for, feed, exercise, train, exhibit, display, or show any animals or livestock other than domestic pets. This is not intended to apply to non-structural, fenced land for grazing. This includes the term "barn" when used to shelter livestock or other animals.	
Forestry	P												An operation involved in the growing, conserving, and managing of forests and forest lands. Forestry operations or practices include the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, insect and disease control, fire protection, and may include the temporary operation of a sawmill or chipper to process the timber.	

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Equestrian center	SU									P	P	P	An establishment where horses or equines are kept for riding, competition, or educational purposes incidental to a club, association, ranch, educational institution or similar establishment but which does not involve commercial sales and is not open to the public for a fee.	
Riding stable	SU									P	P	P	An establishment where horses, equines or other animals that can be ridden by humans are kept for riding and which offers the public rides for a fee.	
Accessory Uses														
Accessory structure	P	P	P	P	P	P	P	P	P	P	P	P		Section 9-10-1
Accessory apartment				P	P								A second dwelling unit that is added to an existing accessory structure (e.g., residential space above a detached garage), or as a new freestanding accessory building, for use as a complete, independent living facility for a single household, with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is considered an accessory use to the principal dwelling. Includes the term garage apartment.	Section 9-10-2
Accessory parking				P	P	P	P	P	P	P	P	P	Vehicular storage or parking required or provided on-site for one or more on-site uses, but not exceeding any applicable parking maximums. Accessory parking may be provided in a parking structure or parking lot.	Section 9-10-3
Automated teller machine (ATM)						P	P	P	P	P	P	P	A mechanized consumer banking device offered by a bank, whether outside or in an access-controlled facility, operated by walk-up customers only and not accessible to customers in vehicles.	

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Caretaker residence										SU	P	P	A dwelling unit within a principal building, or any freestanding accessory building or structure, which is used for occupancy as a dwelling by an owner, security agent, or caretaker.	Section 9-10-4
Community recreation facility, except as listed below	P	P	P	P	P								A private recreational facility for use solely by the residents and guests of a particular residential development and located within the boundaries of such development. Includes indoor facilities such as community meeting rooms and outdoor facilities such as swimming pools, athletic courts, pavilions or picnic structures, and playgrounds.	Section 9-10-5
Golf course	SU	SU	SU	SU									See "golf course" in public and institutional uses	
Drive-through facility						P	P	P	P	P	P		A facility where customers remain in their vehicles while driving through a dedicated lane to conduct a transaction at an area designated as a drive-through or service window.	Section 9-10-6
Family day care home	P	P	P	P	P	SU	SU						A private residence in which a business, registered by the State of Georgia, is operated by any person who receives pay for the supervision and care for less than 24 hours per day for 3 to not more than 6 children under 18 years of age who are not residents in the same private residence.	Section 9-10-7
Guest house	P	P	P	P	P	SU	SU						An accessory use to a dwelling designed and intended for the occasional housing of visitors to a property.	Section 9-10-8
Home occupation	P	P	P	P	P	SU	SU	P					Any use, occupation or activity conducted entirely within a dwelling by the residents thereof, which is clearly incidental and secondary to the use of the dwelling for residential purposes.	Section 9-10-9
Keeping of horses	P												The keeping of horses or other members of the equine family when not associated with a principal agricultural use.	Section 9-10-10

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Outdoor dining						SU	P	P	P	P	P	P	An accessory outdoor dining area on the property of a permitted nonresidential use. Typically, outdoor dining occurs in an unenclosed area with tables, chairs, and other furnishings used for the purpose of drinking or eating food and beverages.	Section 9-10-11
Outdoor display areas								P	P	P	P	P	The accessory outdoor display of products actively available for sale on the property of a permitted principal nonresidential use.	Section 9-10-12
Outdoor storage									P	P	P	P	An accessory outdoor storage on the property of a permitted principal nonresidential use. Includes the storage of merchandise, goods, inventory, materials or equipment, or other items which are not intended for immediate sale or use.	Section 9-10-13
Poultry raising	P	P	P	P	P								The keeping of any chicken, fowl, hen and bantam hen for personal purposes.	Section 9-10-14
Private swimming pool	P	P	P	P	P								A recreational facility designed and intended for water contact activities and serving a single detached dwelling. This definition includes hot tubs or spas intended for residential use.	Section 9-10-15
Retail or restaurant, accessory						SU	P	P	P	P	P	P	Accessory uses in office, institutional, or lodging facilities with a gross floor area of 10,000 square feet or more. Includes barber shops, beauty shops, dry cleaning, drug stores, book stores, florists, gift shops, convenience food stores, newsstands, and eating and drinking uses.	Section 9-10-16
Temporary Uses														
Construction field office	P	P	P	P	P	P	P	P	P	P	P	P	A building or structure located temporarily on a site under development or construction, and which houses offices of the construction contractor. Includes the term construction trailer.	Section 9-11-1

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Model home, temporary sales office	P	P	P	P	P								A principal residential building, temporarily open to viewing by prospective homebuyers, on property containing or proposed to contain a residential subdivision, and which may also be used temporarily as real estate sales office for lots in the residential subdivision.	Section 9-11-2
Special temporary outdoor event						P	P	P	P	P	P	P	A temporary outdoor amusement enterprise, exhibit, entertainment, music venue, meeting, display or sales area, or outdoor area for religious ceremonies.	Section 9-11-3
Temporary classroom	P	P	P	P	P	P	P	P	P	P	P	P	A structure or building, designed to be moveable form one location to another, used as temporary setting for instruction to students and associated with a permitted educational or religious facility or use.	Section 9-11-4
Temporary storage container	P	P	P	P	P	P	P		P	P	P	P	A portable, weather resistant container or tailer of at least 200 cubic feet which is designed and used for the temporary storage or shipment of materials, goods, equipment, household furniture, clothing, or other household goods for a limited period of time before they are moved, used or disposed of. Such containers are typically transported to and from a site by truck or trailer.	Section 9-11-5

KEY: P = Permitted Use SU = Special Use Empty Cell = Not permitted

Use Category	Residential Districts					Nonresidential Districts							Definition	Standards
	R-I-A	R-I	N-C	R-II	R-O	O-I	N-B	C-B	R-B	G-B	L-I	H-I		
Yard sale	P	P	P	P	P								The temporary sale of home furniture, appliances, clothing or domestic items owned by an occupant of a residential dwelling and taking place on the premises on which such occupant resides, whether in the yard or in a carport or garage. Yard sales which do not take place on the premises where such occupant resides are considered open-air businesses, except that this shall not be construed to prevent the sale of such items by another family or household in connection with an event where such items are sold by the occupant of a residence on the premises where the yard sale occurs. This term includes garage sales.	Section 9-11-6

CHAPTER 9-3 SPECIFIC DISTRICT USE STANDARDS

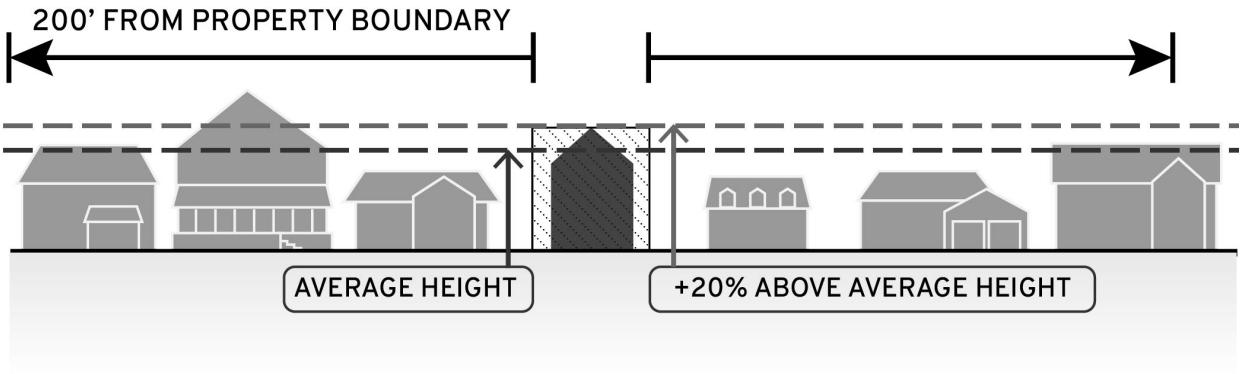
Section 9-3-1. R-I-A, R-I and N-C District Use Standards

The following standards apply to all properties within the R-I-A, R-I, and N-C districts improved or intended to be improved with a single-family dwelling.

(a) Any new development or alteration which results in a change of building height is subject to the following:

(1) The height of the principal structure must be compatible with the height of the existing principal structures used as a single-family dwelling within 200 feet in either direction of the subject site, as measured from the side lot lines.

i. When only a portion of a principal structure on an adjacent lot falls within the 200-foot measurement, the entire structure will be included to determine compatibility.



(2) For the purposes of this section, compatibility shall mean that no building may be erected which exceeds 20% of the average height of the existing principal structures as determined in subsection (1) above, except as provided below.

i. For each foot the structure is setback within the lot beyond the minimum side yard requirement, an additional 2 feet of height may be added to the principal structure. The additional setback must be applied to all interior side lot lines.

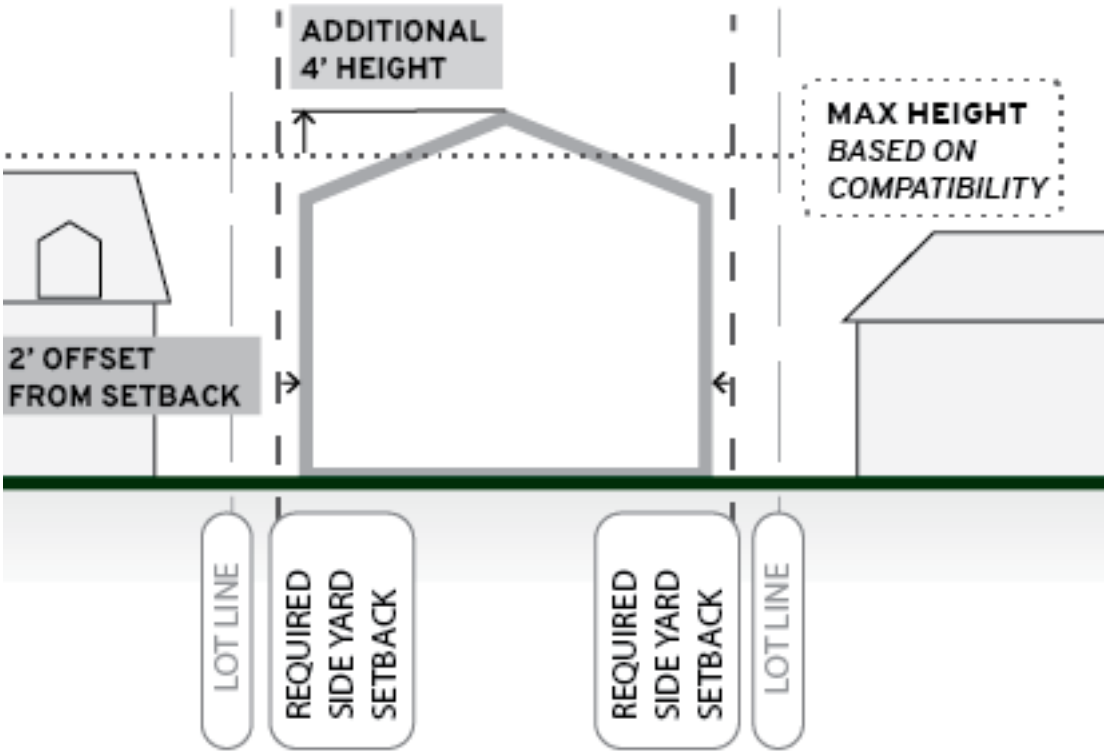
As an example, if a structure in the R-I district is set back 12 feet from all interior side lot lines, an additional 4 feet of height may be added to the structure.

(12-10 = 2; 2x2 = 4).

ii. When the subject site is a corner lot, the additional setback is not required along the street side yard.

(3) No structure shall exceed the height limitations of the district in which it is located.

(4) The requirements of this Sec. 9-3-1 may be varied by the Director when it is determined that, for reasons of topography or other site specific conditions, the height limitations of this section are not



required to achieve height compatibility between residential structures.

(b) In the R-I and N-C districts, new development on infill lots, as defined in Chapter 2-2, shall not deviate from the average build-to line within the established residential area by more than 15 feet.

(1) Where the established residential area may be difficult to determine, the Director shall have the authority to determine the average build-to line.

Section 9-3-2. R-O District Use Standards

The following standards apply to all properties within the R-O (Residential and Office) district.

(a) Office.

No office establishment may exceed 3,000 square feet of floor area.

(b) Personal Service.

No personal service establishment may exceed 3,000 square feet of floor area.

Section 9-3-3. N-B District Use Standards

The following standards apply to all properties within the N-B (Neighborhood Business) district.

(a) All uses within the N-B district must be conducted indoors.

(b) No individual establishment may exceed 50,000 square feet of total gross floor area or provide more than 18,000 square feet of gross floor area on the ground floor.

CHAPTER 9-4 RESIDENTIAL USE STANDARDS

Section 9-4-1. Household Living.

(a) Single-family dwelling, detached.

(1) Exterior siding materials shall consist of wood, brick, stone, concrete, stucco, EIFS or similar materials, cementitious siding, vinyl or similar materials, or any combination of the above except where otherwise identified as a prohibited material within this ULDC.

(2) The structure shall be attached to a permanent foundation constructed in accordance with the Building Code or State regulations as applicable. Exposed foundation walls shall be faced with concrete, hard-coat stucco, brick, stone or a similar material.

(3) The minimum width of a structure shall be 20 feet along the front facade.

(4) A porch or hard surfaced landing shall be provided at each exterior door and stairway top and bottom and shall be no less than 36 inches in width and 36 inches in depth.

(5) All roof surfaces shall have a minimum pitch of 3:12, except that mansard and gambrel roofs must meet this requirement only for those surfaces that rise from the eaves. All roof surfaces exposed to view shall be covered with asphalt or fiberglass shingles, wood shakes or shingles, clay tiles, slate, standing seam metal, or similar materials.

i. Minimum roof overhang shall be 12 inches.

(6) Each dwelling shall be connected to potable water supply and sanitary sewage disposal system approved by the Gainesville Department of Water Resources or Hall County Environmental Health Department.

(b) Single-family dwelling, attached.

(1) Each unit shall have a minimum of 20 feet of frontage on a public street or private road that meets public street standards, and each lot shall have a minimum lot width of 20 feet.

(2) The minimum size of a lot for each fee-simple lot is 1,200 square feet in lot area.

(3) Building Setbacks.

i. The setbacks for the perimeter boundary shall adhere to the existing zoning district or overlay district in which the property is located.

ii. In the case of any public street the front building setback shall be measured from the right-of-way line of the public street. In the case of a private street or public street interior to the development, the front building setback shall be 15 feet and shall be measured from the right-of-way line or, if none is established, the curb of the street nearest the building.

iii. Zero lot line between units within the same building shall be permitted, subject to applicable fire and building codes.

(4) There shall be a minimum building separation of 10 feet between buildings.

(5) To avoid a monotonous appearance no more than 8 attached units may have common walls. Any building containing more than 3 units with common walls must have the front facade and the roof of each 3 units distinct from the others through separation, staggering, or offsets in design at least 3 feet in depth.

(6) Units which face a public street must have an entrance along such street. Entryways must be articulated with a porch at least 6 feet in width and 6 feet in depth. A stoop or other entry feature may be substituted upon approval by the Director.

(7) Each development or phase thereof requires preliminary and final subdivision plat approval in accordance with Chapter 11-4 and Chapter 11-13, respectively, of this ULDC.

(8) Developments shall be designed with shared access by means of a private drive or alley to minimize the number of driveways along a public street. Individual driveways for townhouse developments shall not be permitted on a public street.

(9) Each unit shall have a two-car garage.

i. When located along a public street, garages shall be located to the rear of the structure and accessed by a private drive or alley.

ii. An exemption from this requirement may be allowed if the minimum required parking is located behind the building. In such cases, each required parking space must be within 100 feet of the entrance to the dwelling is it intended to serve.

(10) All developments containing 50 or more dwelling units shall have a fenced dog park or off-leash area a minimum of 1,500 square feet in size.

(11) If a condominium form of ownership is proposed, the development shall meet all current applicable state laws including the Georgia Condominium Act (O.C.G.A. 44-3-70 et. seq.). Proposed bylaws and the articles of incorporation for the condominium association shall be submitted with the application for development approval.

(c) Live-work.

(1) Only persons living in the dwelling unit shall be engaged in the occupation.

(2) Sales or customers should be limited or not permitted. There shall be no external storage of products or materials. Use of the work space shall be limited to general office and similar uses, including investors and those who perform trades via computer or by phone, but not involving the physical exchange of merchandise on the premises.

(3) Signs may be permitted subject to the district regulations in Article 14.

(4) There shall be no external storage of products or materials.

(5) A minimum of 1,000 square feet of total floor area shall be provided within each live-work unit.

(6) The work component of a live-work unit shall be no smaller than 150 square feet and no larger than 40% of the total floor space in the live-work unit.

(7) There shall be a physical connection between the work floor area and the residential floor area of the unit.

(8) There shall be direct pedestrian access at the fronting street at or near grade level to each individual live-work unit.

(9) Residential areas should normally not be provided within the first 20 feet of the ground floor adjacent to the sidewalk.

(d) Multi-family dwelling.

(1) All developments containing 50 or more dwelling units shall have a community recreational facility as defined by this ULDC.

(2) All developments containing 50 or more dwelling units shall have a fenced dog park or off-leash area at least 1,500 square feet in area.

(3) On-site accessory laundry facilities may be included as accessory uses for developments with 25 or more units.

(4) There shall be no requirements for setbacks from private driveways within the multi-family development.

(5) When more than one building is constructed on a lot, buildings shall be separated by at least 10 feet.

(e) Two-family dwelling.

(1) Two-family dwellings shall be subject to those standards for single-family dwellings found in Title 9Section 9-4-1(a).

Section 9-4-2. Relocated Residential Structure.

(a) A relocation permit is required to relocate a residential structure established in the city limits. The applicant shall include the following with the application for the relocation permit:

(1) A photograph of the structure at its present location.

(2) The current location of the structure, including address and tax parcel number.

(3) If the structure is to be relocated inside the city limits, the proposed location of the structure, including address and tax parcel number, and a copy of the recorded plat of the lot on which the structure will be placed is required. If none exists, the applicant shall be required to comply with subdivision requirements of Article 11 of this ULDC.

(4) The total heated floor area of the existing structure and, if to be located within the city, the renovated structure.

(5) If it is to be relocated within the city a building permit will be required and all exterior improvements to the structure shall be completed within six months of relocation.

(6) If located or proposed to be located within the Historic Preservation Overlay, the applicant must first obtain a Certificate of Appropriateness from the Historic Preservation Commission in accordance with Title 9Chapter 19-3.

(b) The Building Official shall inspect or arrange to inspect the structure for compliance with the minimum standards of the zoning district proposed for location and other applicable regulations.

Section 9-4-3. Group Living.

(a) Continuing Care Retirement Community.

(1) The facility may have on site as a part of its development the following accessory uses for use of residents and their guests: full-service kitchen for meals, exercise facilities, swimming pools, tubs and spas, administrative offices, nursing stations, treatment rooms, emergency paging systems, indoor and outdoor recreational facilities, restrooms, hair salons, computer facilities, game and card rooms, chapel, movie theaters, wellness centers, billiard rooms, restaurant facilities, common areas, libraries, dining rooms, mail rooms, housekeeping and storage areas, laundry facilities, and gift shops.

(2) Independent living units shall contain a minimum of 650 square feet of floor area.

(3) Maximum building coverage shall be limited to 40% of the net lot area.

(4) The minimum lot size shall be 5 acres.

(5) All principal and accessory buildings shall be setback at least 50 feet from all side and rear property lines.

(6) There shall be a buffer at least 25 feet in width along all side and rear property lines.

(7) At least 80% of the units must be occupied by residents 62 years old or older, and the remaining units must be occupied by at least one resident 55 years old or older.

(b) Group Home.

(1) No person shall operate a rooming house or group home without a valid business registration issued in the name of the operator and for the specific dwelling.

(2) As part of the registration process, property owners of existing and new rooming houses or group homes shall appoint an agent, who lives in Hall County, as the person responsible for the property. The designated agent shall be available to be contacted 24 hours a day, 7 days a week. The designated agent for the property shall be responsible for responding expeditiously to any complaints received by the city and problems if they occur.

(3) The application for registration shall include the agent of the property and the resident manager. The applicant for registration required by this Section shall file with the application the following:

i. A copy of the recorded plat for the property.

ii. A site plan, if no current as-built survey exists.

iii. A floor plan of each floor of the building drawn to scale which shows all stairs, halls, the location and size of all windows, the location and size of habitable rooms, and the exits of each floor to be occupied. The intended use of every room in the building must be indicated on the floor plans submitted.

iv. A written statement indicating the number of persons proposed to be accommodated or allowed on each floor, and any services to be provided.

(4) A resident manager shall reside on the licensed premises. The manager of every rooming house or group home shall keep a register in which shall be entered the name and residence of every person who becomes a lodger, boarder or guest therein. Such register shall also show the number or location of the room or bed occupied by such person, the date of arrival, and the duration of stay. The register shall also be accessible, without charge, to the Director, any police officer, or other duly authorized agent of the city. An up-to-date floor plan and current list of occupants shall be maintained by the resident manager and posted in a conspicuous location.

(5) No basement, attic, or accessory building shall be used for rooming house or group home purposes.

(6) No room in any rooming house or group home shall be occupied as a sleeping room by any person unless there are at least 70 square feet of floor area for each single-occupancy room, with 50 square feet of floor area for each additional person when more than one occupant is allowed. The minimum floor area is exclusive of wardrobe and closet space.

(7) All sleeping quarters shall be served by working heating and cooling facilities and a bed with a mattress for each registered occupant.

(8) At least one flush water closet, lavatory basin, and bathtub or shower, connected to a water and sewerage system and in good working condition, shall be supplied for each 8 persons or fraction thereof residing within a rooming house or group home. All such facilities shall be located within the dwelling and accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

(9) Any rooming house or group home where food is served shall comply with all requirements of the Hall County Environmental Health Department.

(10) The property owner, property agent, and resident manager of each rooming house or group home shall be individually responsible for the maintenance of safe and sanitary conditions in every part of the rooming house or group home.

(c) Institutionalized Residential Living.

(1) All institutional residential living and care facilities shall meet the requirements of the State Board of Health and applicable rules of the State Department of Human Resources. Proof of compliance with such requirements shall be submitted to the Director prior to business registration approval.

(d) Rooming House.

(1) All rooming houses shall be subject to the standards of Title 9Section 9-4-3(b).

CHAPTER 9-5 PUBLIC AND INSITUTIONAL USE STANDARDS

Section 9-5-1. Place of Worship.

(a) When located on a lot abutting a R-I-A, R-I, N-C, or R-II zoning district or residential use, places of worship and their customary accessory buildings shall be set back at least 50 feet from any property line. A natural buffer at least 25 feet in width shall be provided.

(b) Acceptable accessory uses include, but are not limited to: a residence for the housing of the pastor, priest, minister, rabbi, etc.; school buildings and temporary classrooms; gymnasiums and other indoor recreational facilities; community meeting rooms; and unlighted outdoor recreational facilities. In commercial districts, a community food or housing shelter may be operated as an accessory use to a place of worship.

(c) When located in a residential zoning district, no place of worship shall be permitted to establish a day care center, house more than one household or family on-site, or provide lighted outdoor recreation facilities, without a special use permit approved by the Governing Body in accordance with the procedures of this ULDC.

Section 9-5-2. Club or Lodge, Private.

(a) When located on a lot abutting a R-I-A, R-I, N-C, or R-II zoning district or residential use, nonprofit clubs or lodges shall be set back at least 50 feet from any property line.

(b) A natural buffer at least 25 feet in width shall be provided within the setback.

(c) When located in a residential zoning district, no nonprofit club or lodge shall be permitted to establish lighted outdoor recreation facilities without a special use permit approved by the Governing Body in accordance with the procedures of this ULDC.

Section 9-5-3. Utilities.

(a) Utility Substation.

(1) Such use must be enclosed by an opaque fence at least 6 feet in height and surrounded by a landscape strip at least 10 feet in width. Landscaping shall create an opaque screen to a height of at least 6 feet around the substation, except for areas for vehicular access.

(2) No storage of vehicles or portable equipment is allowed.

CHAPTER 9-6 TOWERS AND WIRELESS COMMUNICATION FACILITIES

Section 9-6-1. Purpose and Intent.

The purpose of this chapter is to establish guidelines for the siting of all wireless telecommunication equipment and facilities, microwave towers, common carrier towers, cellular, television and radio telecommunications towers and antennae. The regulations and requirements of this Chapter are adopted for the following purposes:

(a) To provide for the location of communication towers and communication antennas; and to protect residential areas and land uses from potential adverse impacts of communication towers, poles, and antennas by restricting them in accordance with the restrictions of this Chapter.

(b) To minimize adverse visual impacts of communication towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.

(c) To accommodate the growing need for communication towers and antennas while minimizing the total number of towers within the community necessary to provide adequate personal wireless services to residents.

(d) To promote and encourage shared use/co-location of existing and new communication towers (i.e., the use of multiple antennae operated by different providers on a single tower) as a primary option rather than construction of additional single-use towers or poles.

(e) To promote and encourage placement of antennae on existing towers, where such siting options exist, and on buildings, where such siting options exist.

(f) To consider public health, safety, and welfare in the siting of new towers, and to avoid potential damage to adjacent properties from tower or pole failure through engineering and careful siting of tower structures.

It is also the intent of this ordinance to limit the siting of telecommunications facilities and towers where they will have the least adverse impact on the community and still comply with the requirements of the Telecommunications Act of 1996 (Public Law No. 104-104, 47 U.S. C. Section 332(c)(7)). These intentions are accomplished with restriction of locations and by enacting controls on height, setbacks, screening, color, and materials in order to minimize visibility and promote public safety and welfare. The regulations in this Chapter are reasonably related to the valid public purposes described in this Section.

It is not the intent of the Governing Body to discriminate among providers of functionally equivalent services or to prohibit or have the effect of prohibiting the provision of wireless services in the City of Gainesville. It is also the intent of the city that applications to place, construct, or modify personal wireless service facilities will be acted upon within a reasonable period of time.

Section 9-6-2. Applicability.

All new communication towers, poles, and communication antennas shall be subject to this Chapter, except that this Chapter shall not govern the following:

(a) Any tower, or the installation of any antenna, that is 70 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator or ham radio operator from the operator's residence.

(b) Antennae or towers located on property owned, leased, or otherwise controlled the City of Gainesville, Hall County, or Gainesville or Hall County School Board, provided that a license or lease authorizing such antenna or tower has been approved by the government or agency with jurisdiction.

(c) Monopole towers 100 feet or less in height located within electrical substations and antennae attached to existing transmission towers.

Section 9-6-3. Performance and Construction Standards.

(a) Structural Design. New communication towers or poles and antennae, and modifications to existing structures including, without limitation, the addition of height, antennae or providers, shall be constructed in accordance with applicable federal, state and local regulations.

(b) Placement Restrictions. Towers occupying a lot as a principal use shall at minimum meet the minimum lot size and setback requirements for the zoning district in which the lot is located. Towers shall be a minimum of 300 feet from any residential zoning district and a minimum of 500 feet from any single-family residence. The tower shall also be set back from property lines a distance equal to or greater than the tower height. All towers shall be located at least one-third (1/3) of their height in feet from any public right-of-way. All accessory structures will meet the normal setbacks for the districts in which they are located. When the tower is on property leased, the setbacks shall apply to the lot of record, not the lease boundaries.

(c) Screening. The visual impacts of a communication tower at the ground level shall be mitigated by landscaping. All towers and accessory structures shall be surrounded on the ground by a minimum 10-foot-wide landscape strip or buffer that forms a hardy screen dense enough to interrupt vision and shield the base and accessory structures from public view and view from the surrounding properties. The buffer shall consist of evergreens that will reach a height of at least 8 feet within three years.

(d) Fencing. A black vinyl-coated chain link fence or wall not less than 6 feet in height from finished grade shall be provided around each communication tower or pole. Access to the tower or pole shall be through a locked gate. The tower or pole shall be equipped with an appropriate anti-climbing device, unless the Director of Planning and Development waives this requirement for alternative tower structures.

(e) Height. Through approval of a special use application, when one is required, the height of the tower may exceed the maximum height limit of the zoning district in which it is located, up to a height of 200 feet, subject to the limitations of this paragraph. If a special use application is not required for erection of the tower, and the tower is to be placed in an L-I or H-I zoning district in a manner that exceeds the maximum height for said zoning district, then the applicant may exceed the height limitation of the applicable zoning district only through a zoning variance process. Towers shall be the minimum height necessary to provide parity with existing similar tower-supported antenna. No tower, pole, or antenna, whether freestanding or attached to a building or structure, shall exceed 200 feet in height from ground level unless a zoning variance is obtained. To prevail in any variance application to exceed established maximum height limitations of this paragraph or the zoning district in which it is located, the applicant must successfully demonstrate why the prescribed maximum height is insufficient to provide adequate service, or that a taller tower will be in the community's interest by avoiding the construction of one or more additional towers at a new location.

(f) Illumination. Communication towers, poles, or antennae shall not be lighted except to assure human safety or as required by the Federal Aviation Administration, Federal Communications Commission, or other federal agency with jurisdiction. Lighting shall be restricted to dual lighting, medium intensity white strobe lights (daylight mode), and red obstruction lights (nighttime mode), unless the FAA or state aeronautics division requires another type of lighting.

(g) Color and Material. Towers clustered at the same site shall be of similar height and design. Communication towers not required to be painted or marked by the Federal Aviation Administration shall have either galvanized steel finish or be painted a non-contrasting color approved by the Governing Body to minimize the equipment's visibility. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is

identical or closely compatible with the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

(h) Signs and advertising. No advertising is permitted on a tower or antenna. However, towers shall have mounted in a conspicuous place a sign of not more than one square foot in area, identifying the facility's owner and providing a means of contact in the event of an emergency.

(i) Co-location. Proposed communication antennas may and are encouraged to co-locate onto existing communication towers. New or additional special use approval is not required for the addition of an antenna to an existing approved tower or pole. All towers over 100 feet in height shall have structural capacity and ground or interior space to accommodate multiple users. Towers up to 160 feet shall accommodate at least three users, and towers over 160 feet shall accommodate at least five users.

(j) Noninterference. No communication tower or antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety system and/or public safety entities.

Section 9-6-4. Application Requirements.

Each application shall include the following, which are in addition to the information required for special use applications generally, if required:

(a) A recorded plat or boundary survey, with topographical information.

(b) A site plan.

(c) An elevation view, perspective drawing, or simulated photograph of how the proposed telecommunication tower will look from public rights-of-way and surrounding residential streets from which it will be visible once constructed.

(d) Supporting engineering calculations and information which provide evidence of need and document radio frequency range, coverage area, and tower height requirements. The application must specifically address whether there is a technically suitable space available on an existing tower or other location within the search area (i.e., the grid for the placement of the antenna), and such information shall specifically include the location of all existing towers within a one-mile radius of the site proposed.

Section 9-6-5. Application Processing.

Decisions on applications for wireless service facilities shall be made within a reasonable period of time, which shall mean generally that such decisions shall be processed in roughly the same amount of time required for other special use applications; provided, however, that the Planning and Appeals Board and Governing Body shall each table an application for special use for a wireless service facility no more than once before making a recommendation and decision, respectively, unless the applicant does not object to additional continuances. Applications that do not require a special use permit shall be acted upon by the Director within 30 days of the date the application is considered by the Director to be complete.

Section 9-6-6. Criteria to Consider in Acting Upon Applications.

In addition to the criteria for determining whether to approve or deny special uses, as specified in Chapter 18-2, when an application for wireless telecommunication facilities or equipment is considered, the Planning and Appeals Board and the Governing Body (if special use application is required), or the Director in the case no special use is required, shall consider the following without limitation:

(a) Impacts on surrounding properties with regard to aesthetics and fit with the context of its surroundings, considering the location, height, type of facility, color and materials proposed.

(b) Whether impacts on surrounding properties on aesthetics can be mitigated by a monopole tower, or by a camouflaged tower (e.g., disguised as a pine tree), or by using stealth technology (i.e., making the tower resemble common features such as church steeples, bell towers, clock towers, grain silos, gateway elements, and monuments), or by requiring greater setback from impacted properties.

(c) Whether the tower or wireless facility would pose an unreasonable risk to adjoining properties, including consideration of a fall area where ice or other debris may fall off the tower without harm.

(d) The appropriateness of the location of existing towers, poles, and buildings, including electric transmission towers, that might serve as alternative locations for construction of a new tower or pole or placement on a building in a new location. It is the intent that new antennae where possible shall be co-located on existing towers and poles, placed on existing buildings, or be within a concealed support structure (e.g., camouflaged as an artificial pine tree, church steeple, clock tower, grain silo, flagpole, etc.), prior to authorizing the installation of a new non-camouflaged pole or tower. The failure to consider or unwillingness to accept viable options as described in this paragraph may be grounds for denial of a special use application for a new tower or pole.

(e) Whether the application demonstrates compliance with the regulations established in this Chapter.

(f) Whether the tower would be engineered and constructed to accommodate additional communication service providers (i.e., whether the application provides for co-location as required by this Chapter).

(g) Whether a denial of the application would have the effect of prohibiting wireless services in the jurisdiction or area or would unduly restrict competition among wireless providers.

In addition, the Governing Body or Director of Planning and Development shall make a decision on the application based on substantial evidence to allow a reviewing court to understand the reasoning behind the decision and whether that reason comports with the evidence presented. To this end, for each application for wireless service facilities, the Governing Body or Director, whichever has jurisdiction, shall rely on findings of fact in making a decision on said application. Such findings may be part of the recommendation and report of the Director, the recommendation of the Planning and Appeals Board, the application and supporting materials submitted by the applicant, testimony from interested individuals, professionals, and the applicant, and any additional findings of fact the Governing Body may itself determine. Generalized community concerns, unaccompanied by supporting documentation, do not constitute substantial evidence under Section 704 of the Telecommunication Act of 1996 or this Chapter.

CHAPTER 9-7 COMMERCIAL USE STANDARDS

Section 9-7-1. Adult Entertainment Establishment.

(a) Adult entertainment establishments shall comply with all requirements of Chapter 6-10 of the Code of Ordinances of the City of Gainesville.

(b) No adult entertainment establishment use shall be located as follows:

(1) Within 300 feet of a lot zoned to allow single-family, two-family or multi-family residential uses.

(2) Within 300 feet of the lot line of any library, school, park, playground, governmental building, civic center, church or place of worship.

(3) Within 1000 feet of the lot line of any other adult entertainment use.

(4) The distance restrictions set out above shall apply in any and all directions from the lot line of the proposed adult use at the point closest to the lot line of the other property, as measured in a straight line to the closest point on the lot line of the other property. This distance shall be verified by plat showing distances furnished by the applicant, prepared by a land surveyor registered in the State of Georgia. This plat shall accompany and be made part of the application for Special Use approval.

(c) Nothing contained herein shall be construed to authorize or legalize the selling, lending, renting, leasing, giving, advertising, publishing or other dissemination to any person, any book, magazine, movie film, still picture or any other written material, pornographic matter, novelty, device or related sundry item which is obscene material under the law of the State of Georgia.

(d) Nothing contained herein shall be construed to authorize or legalize any act of prostitution, sodomy, solicitation for sodomy, masturbation for hire or distribution of obscene materials, as those acts are defined by the laws of the State of Georgia.

Section 9-7-2. Commercial Recreation, Indoor.

(a) The minimum lot size is 2 acres.

(b) Vehicular access shall be provided only from a collector or arterial street.

Section 9-7-3. Commercial Recreation, Outdoor.

(a) The minimum lot size is 2 acres.

(b) Vehicular access shall be provided only from a collector or arterial street.

(c) A minimum building setback of 100 feet shall be required from all side and rear property lines.

(d) A natural undisturbed buffer at least 50 feet in width is required adjacent to all side and rear property lines.

(e) Uses that propose lighting other than incidental security lighting shall be required to submit a photometric plan in accordance with Chapter 13-7 to enable the evaluation of impacts from illumination.

(f) A written evaluation of noise impacts is required at the time the following special uses are proposed to be established as principal uses: stadiums, amphitheaters, outdoor firearms shooting ranges, and racetracks for animals and motor driven vehicles. Such projects may be required to construct noise attenuation walls or otherwise address off-site noise impacts.

(g) A traffic impact analysis shall be required for amphitheaters, stadiums, racetracks for animals or motor-driven vehicles, and recreational vehicle parks. See Chapter 18-4 of this ULDC for traffic impact analysis requirements.

(h) Golf Driving Range.

(1) In addition to those standards in 9-7-3(b) above, the following shall apply to any golf driving range:

i. The minimum lot size is 10 acres.

ii. The width of a driving range shall be not less than 200 yards. The depth along the driving area shall be at least 350 yards measured from the location of the tees.

iii. Loudspeakers or paging systems are prohibited when a driving range abuts a residential district or use.

iv. Operation shall be limited to the hours of 8:00 a.m. to 11:00 p.m.

(i) Outdoor Shooting Range.

(1) In addition to those standards in 9-7-3(b) above, the following shall apply to any outdoor shooting range:

i. The minimum site size for a skeet or trap shooting range is 15 acres. The minimum site size for a rifle range is 20 acres.

ii. The range-portion of an outdoor shooting range shall be located no closer than 500 feet to a residential zoning district boundary or existing residential use.

iii. Ranges shall have an earthen embankment not less than 25 feet in height and not less than 10 feet in depth along the entire width at the end of the range to serve as a back stop.

iv. Operation shall be limited to the hours of 9:00 a.m. to 11:00 p.m.

(j) Racetrack.

(1) In addition to those standards in 9-7-3(b) above, the following shall apply to any racetrack:

i. Racetracks for vehicles or animals shall be located a minimum of 500 feet from any residential zoning district or use.

ii. A buffer at least 75 feet in width shall be provided adjacent to any residential use or district.

iii. Security fencing shall be provided when the facility abuts a residential use or district.

iv. A maximum constant sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at adjacent residential property lines. Sound levels shall be measured with a sound level meter. Noises capable of being measured shall be those that cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noise measurements of a few minutes only will suffice to define any given noise level.

v. Operation shall be limited to the hours of 9:00 a.m. to 11:00 p.m.

Section 9-7-4. Commercial Parking.

(a) An attendant's shelter building may be permitted for parking in nonresidential zoning districts, provided that such structure or building does not contain more than 50 square feet of gross floor area and is located at least 25 feet from the public right-of-way.

(b) Parking areas shall not be used for the repair or dismantling of any vehicle, equipment, materials, or supplies.

Section 9-7-5. Day Care Center.

(a) At least 150 square feet of outdoor area and at least 35 square feet of indoor space shall be provided for each child or other person served.

(b) The outdoor area shall be enclosed by a solid wood, composite or vinyl fence or masonry wall, with a minimum height of 5 feet, or by a building, or combination wall or fence and building.

(c) Adequate and safe areas for the drop-off and pick-up of patrons shall be provided.

Section 9-7-6. Eating and Drinking.

(a) Brewpub.

(1) All brewpubs must meet the requirements for operation in the Official Code of Gainesville, Title 6, Chapter 6-4.

Section 9-7-7. Event Facility.

(a) Event facilities shall be located on an Arterial Street or Collector Street, as defined in this ULDC.

(b) Any amplified noise shall be subject to the regulations established in the City's Code of Ordinances and this ULDC, as may be amended from time to time.

(c) Uniformed security guards shall be provided to ensure the safety of the public and all attendees within an event facility.

(d) A site inspection by the Building Official shall be required prior to the issuance of a Certificate of Occupancy for any event facility.

(e) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and this ULDC. In the event of a conflict between other sections and this section, this section shall control.

Section 9-7-8. Lodging.

(a) Bed and Breakfast Inn.

(1) Bed and breakfast inns shall have a minimum of two guest rooms and a maximum of five guest rooms.

(b) Hotel or motel.

(1) The purpose of this section is to ensure the continued availability of quality transient lodging within the City and proper maintenance of lodging services and to protect the health, safety and welfare of users of lodging services.

(2) This section is essential to the public's interest, safety, health, and welfare and shall be liberally construed to effectuate its purposes.

(3) Applicability.

i. The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and this ULDC. In the event of a conflict between other sections and this section, this section shall control.

ii. The provisions of this section which apply to "nonconforming use," as defined in Section 10-3-1, shall apply to new lodging services established after December 17, 2019. All legal, code-compliant lodging services currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 10-3 of this ULDC.

(4) Definitions.

i. **Bona fide employee**. A person who works in the business of lodging services or extended stay lodging services under a contract of hire, whether express or implied, where the employer has the power or right to control or direct the details of what work is to be performed and the manner in which that work is to be performed.

ii. **Fixed cooking appliances.** A stove top burner; a hotplate that does not serve as an integral part of an appliance designed solely to produce coffee; a conventional oven; a convection oven; or any oven producing heat using resistance heating elements, induction heating, or infrared heating sources.

iii. **Guest.** A person who is not a Patron but is present on the premises of lodging services to accompany a Patron and with the express permission of the owner, operator, keeper or proprietor of the lodging services. Guests are required to register with the supporting Patron.

iv. **Kitchen facilities**. Kitchen amenities including, but not limited to, refrigerators, stoves, ovens, and kitchen-type sink. Amenities limited to a microwave, mini-refrigerator, and/or an appliance designed to produce coffee or tea do not constitute "kitchen facilities" for purposes of this definition.

v. **Patron**. A person who pays a fee to the owner, operator, keeper or proprietor of the lodging services for the right to occupy one or more rooms.

(5) Provisions applicable to lodging services.

i. No more than 5% of rooms in lodging services shall have fixed cooking appliances and/or kitchen facilities. If more than 5% of the rooms contain fixed cooking appliances and/or kitchen facilities, such lodging services shall be deemed extended stay lodging services, and subject to the regulations for extended stay lodging services.

ii. No lodging services may be converted to and operated as extended stay lodging services unless the lodging services is in full compliance with each of the provisions applicable to extended stay lodging services, including but not limited to having the appropriate zoning for the property upon which the lodging services is located.

iii. All lodging services must staff the lobby with a bona fide employee or manager 24 hours a day.

iv. No owner, operator, keeper, proprietor or employee of lodging services shall provide lodging at an hourly rate.

v. No owner, operator, keeper or proprietor of lodging services shall designate more than three rooms for the purpose of allowing bona-fide employees and their family to reside on the premises.

vi. Maximum length of occupancy.

vii. No lodging services located within the City shall allow any person to stay at such lodging services for more than 15 consecutive days, nor more than 30 days during a 180-day period unless one of the following criteria apply.

A. Where there is a written agreement between lodging services and a business entity or governmental agency to house employees/contractors and family of employees/contractors of such business entity or governmental agency during times that said employees/contractors are performing services for such business entity or governmental agency; or

B. Where there is documentation, consistent with HIPAA privacy rules, that a Patron and/or Guest(s) are family of or providing care for a patient who is admitted at a local hospital or other medical care facility; or

C. Where an insurance company or governmental agency has provided documentation that a Patron and/or Guest has been displaced from the Patron and/or Guest's home by a natural disaster or fire.

viii. Each room at lodging services shall be accessed through an interior hallway, and no person shall have access to the exterior of the building except through the central lobby or as otherwise determined by fire codes.

ix. Each room at lodging services shall have a minimum of 300 square feet.

x. Any outdoor recreational areas provided by lodging services shall be located to the rear or side of the building.

xi. A fixed cooking appliance in any room at lodging services shall have a maximum 60-minute automatic power-off timer for each such appliance.

xii. Inspections of rooms and business records of lodging services may be performed by sworn officers of the City Police Department or the City Code Enforcement and their designated employees for the purpose of verifying compliance with the requirements of this section and state law.

(6) Recordkeeping and registration requirements for lodging services.

i. Every owner, operator, keeper or proprietor of any lodging services shall keep a record of all rental agreements between the lodging services and all Patrons and Guests and make these records available to the City upon request. For purpose of this subsection, the term "record" shall include the electronic registration system of the lodging services which stores Patron and Guest identifying information. In the event the lodging services does not have an electronic registration system, the lodging services shall manually record the Patron and Guest information in a paper record or registration book.

ii. The following information, at a minimum, must be recorded at the time of registration and maintained for a period of not less than 180 days after the rental agreement's termination:

A. The number of occupants.

B. The full name and phone number of the person responsible for payment.

C. The room number assigned to each Patron and Guest.

D. The day, month, year and time of arrival of each Patron and Guest.

E. The day, month, and year each Patron and Guest are scheduled to depart.

F. Upon departure, record of departure day, month, and year for each Patron and Guest.

G. The rate charge and amount collected for rental of the room.

iii. No person shall procure or provide lodging in any lodging services, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging.

iv. All information required to be maintained pursuant to this section shall be provided to any federal, state, or local sworn law enforcement officer having the lawful power to arrest, upon demand of the officer and a representation by said officer that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation. Nothing in this

requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy that the officer shall otherwise possess as a matter of law, probable cause, constitutional law, statutory right, or warrant.

(c) Hotel or motel, extended stay.

(1) In addition to those standards in Section 9-9-7-8(b) above, the following shall apply to all extended stay hotels or motels:

i. The minimum lot size shall be 2 acres.

ii. A lobby at least 700 square feet in size shall be provided.

iii. Maximum length of occupancy may be extended when official documentation is provided from a local non-profit housing agency or shelter that no alternative housing is available for the patron or guest.

iv. A buffer at least 50 feet in width shall be provided when adjacent to a residential district or use.

A. Buffers shall be comprised of a 25-foot undisturbed natural buffer adjacent to the property line. The remainder of the buffer may be natural or landscaped in accordance with Section 13-1-3.

Section 9-7-9. Personal Service.

(a) Animal Care, indoor.

(1) All indoor animal care shall be contained in a completely enclosed soundproof indoor facility.

(2) Outdoor elimination areas shall not be located within 25 feet of any residential district or use.

(b) Animal Care, outdoor.

(1) Outdoor areas for animals shall not be located within 50 feet of any residential district or use.

(2) Outdoor areas for animals shall be enclosed by a solid wood, composite or vinyl fence or masonry wall a minimum height of 6 feet, or by a building, or combination wall or fence and building.

Section 9-7-10. Retail Sales.

(a) Artisan Workshop.

(1) Workspaces for manufacturing or fabrication may occupy no more than 2,500 square feet of floor area.

(2) Only products made on the premises may be sold on the premises.

(3) The operation shall not result in noise, electrical interference, vibration, smoke, gas, fumes, odor, dust, fire hazards, or other injurious or obnoxious conditions detectable to the normal human senses off the premises.

(b) Hookah and Vapor Consumption.

(1) Purpose and Findings.

i. The governing body finds that the use of hookah pipes, electronic cigarettes, vape pens, and other similar devices, and the activities associated with such businesses, have been associated with increases in odors, noise, vapors, second-hand smoke, parking impacts, loitering, and

disturbances in the peace. The purpose of this section is to prevent the overconcentration of this land use and to mitigate the negative impacts associated with this land use.

ii. The governing body also finds that smoking and vaping land uses expose minors to dangerous secondhand-smoke by-products and increase the potential for minors to associate smoking of hookah pipes, electronic tobacco devices, and vaping devices with a normative or healthy lifestyle.

iii. The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found them to contain carcinogens and toxic chemicals to which users and bystanders could potentially be exposed, suggesting that the same health and public nuisance concerns present with conventional cigarettes exist with electronic cigarettes.

iv. The U.S. Centers for Disease Control and Prevention reports that smoking a hookah has many of the same health risks as cigarette smoking; that hookah use by youth is increasing; that the charcoal used to heat hookah tobacco can have negative health risks because it produces high levels of carbon monoxide, metals, and carcinogens; that hookah smokers may absorb more of the toxic substances also found in cigarette smoke than cigarette smokers do; that secondhand smoke from hookahs can be a health risk for nonsmokers; and that new forms of electronic hookah smoking are now on the market and very little information is available on the health risks of electronic tobacco products.

v. Chapter 3-7 the Code of the City of Gainesville, Georgia entitled “Smokefree Air” bans smoking in all enclosed public places, subject to certain exceptions. In addition, the State of Georgia further regulates smoking in public areas under the Georgia Smokefree Air Act of 2005.

(2) Applicability.

i. The provisions of this section shall apply in addition to other regulations of the City’s Code of Ordinances and ULDC. In the event of a conflict between other sections and this section, this section shall control.

ii. The provisions of this section which apply to “nonconforming use,” as defined by this ULDC, shall apply to new facilities established after December 17, 2019. All legal, code-compliant hookah, e-cigarette, and vapor lounges/bars currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 10-3.

(3) Operational and Development Standards.

i. Any hookah and vapor consumption use shall be located at least 500 feet from any other hookah and vapor consumption use, smokers’ lounge, smoke shop, tobacco shop, and/or alternative nicotine product shop.

ii. Any hookah and vapor consumption use shall be located at least 1,000 feet from any public or private K-12 school or daycare, library, church, community or recreation center, liquor store, adult entertainment establishment, tattoo parlor, pawnshop, bar or nightclub, card room, check cashing business, park, or residential zoning district.

iii. Any hookah and vapor consumption use shall operate in compliance with all federal, state, county, and local laws and regulations.

iv. No persons under 18 years of age shall be permitted within a hookah and vapor consumption establishment, including as employees. All employees must be at least 18 years of age. Business owners or operators shall require proof of identification to verify the age of customers, visitors, and employees.

v. All business-related activity, including smoking, shall be conducted entirely within a building. Outdoor seating, operating outdoor barbecues, and/or lighting coals outdoors shall not be permitted.

vi. No admission charges, including a cover charge or minimum purchase requirement, shall be permitted.

vii. Food and beverages, including alcoholic beverages and prepackaged food and beverages, shall not be sold, served, or consumed on the premises.

viii. No window coverings or signage shall prevent visibility of the interior of the establishment from the outside during operating hours.

ix. Adequate ventilation must be provided in accordance with all standards imposed by the building official and fire department, and any other requirements applicable to the establishment by state or federal laws. The requirements imposed by the building official or fire department may be more comprehensive than current building codes to prevent negative health and nuisance impacts on neighboring properties, including a requirement for a separate system to prevent smoke and vapors from migrating to adjoining suites or buildings and to outdoor public areas.

(c) Ice Vending Machine, commercial.

(1) Commercial Ice Vending Machines are not permitted within the Midland Overlay District or Historic Overlay District.

(2) Operational and Development Standards.

i. Only one ice vending machine shall be allowed on any single parcel.

ii. No such use shall not be located within 1,320 feet (¼ mile) of an existing commercial ice vending machine.

iii. Shall be at least 100 feet, in any direction, from any residential property and must be screened and not visible from an adjacent residential property.

iv. Shall not be less than 30 square feet and not more than 250 square feet in size.

v. Shall only be allowed on a site occupied by another principal use.

vi. Shall be located no more than 5 feet from principal use structure.

vii. Shall front an arterial, collector or higher classified roadway.

viii. Shall not be located on any required parking spaces or drive aisles.

ix. Shall provide a minimum of two off-street parking spaces.

x. Signage shall be permitted on any two sides of the unit only and shall not exceed one square foot for each linear foot of unit wall as measured along the longest wall. In no case shall permitted signage exceed 20 square feet per side.

xi. A trash receptacle with a minimum capacity of at least 30 gallons shall be placed adjacent to each ice vending unit. Such receptacle shall be properly maintained and emptied by the ice vending unit owner or their designee at least once every two days.

xii. By receipt of permit, the owner shall authorize the City of Gainesville to remove any ice vending unit upon abandonment or discontinuation of use after a period of 45 consecutive days as determined by the Building Official. If removed at the City's expense, a lien may be placed on the ice vending unit and charged to the owner.

Section 9-7-11. Self-service Storage Facility.

(a) Vehicular access shall only be provided from an arterial or collector street.

(b) The minimum lot size is 2 acres, and the maximum developed area is 4 acres.

(c) Individual storage units shall not exceed 800 square feet in area and shall not be used for the storage of hazardous materials or toxic substances.

(d) The use of individual storage units as a dwelling or for the sale of goods or products is prohibited.

(e) No individual building shall be more than 200 feet long.

(f) Fencing adjacent to a public right-of-way shall be required and shall be an architecturally finished wall or solid wood, composite or vinyl fence. Fences placed on the remainder of the site may be black vinyl-coated chain-link.

(g) Hours of operation are limited to the hours of 5:00 a.m. to 12:00 a.m. This does not include any on-site employee considered necessary for the security of the facility.

Section 9-7-12. Vehicular.

(a) Fuel Sales.

(1) No structure shall be located within 100 feet of any residential district or use.

(2) Pumps shall be set back at least 25 feet from any street right-of-way line.

(3) Fuel pump canopies are subject to the following:

i. Canopies shall not exceed 18 feet in height as measured to the bottom of the canopy.

ii. Canopies shall be compatible with the color, texture, material, and architectural design of the principal structure.

iii. Support structures such as columns shall be faced in brick or stone.

iv. Fuel canopies shall not be internally illuminated, except that signs attached to canopies may be illuminated in accordance with Article 14.

(b) Truck Stop.

(1) All uses other than the dispensing of fuel or other accessory vehicle services must be contained within a single principal building. Such building may contain a convenience store, restaurant, recreation lounge, restroom facilities, and showers.

(c) Vehicle Sales or Leasing, new.

(1) The minimum lot size is 2 acres.

(2) Establishments that sell, rent, or lease automobiles must provide a parking plan to the Director for review and approval. Such plan shall indicate areas for employees, patrons, and inventory and must be clearly marked in accordance with Section 13-4-4.

(3) Parking or storage of vehicles for sale, rent, or lease in customer parking areas, unloading zones, landscape strips, or in any other grass or unpaved area is not permitted. Vehicles may be displayed in a building functioning as a showroom.

(4) Adequate space must be allocated and reserved on the site for the unloading of vehicles. Loading areas must be indicated on the parking plan.

(5) The minor service and repair of vehicles sold on the property is permitted as an accessory use provided that such activity is conducted within an enclosed building or service bay. The use of a temporary structure such as a canopy, shed or similar structure for the servicing of vehicles is not permitted.

(6) When abutting a residential zoning district or use the following shall apply:

i. Vehicle sales establishments require submittal and approval by the Director of a lighting plan demonstrating compliance with the requirements of Chapter 13-7.

ii. In addition to the standards of Section 9-10-13, the outdoor storage of vehicles must be setback at least 50 feet from any side and rear property line.

iii. A natural buffer at least 25 feet in width shall be provided.

iv. Outdoor loudspeakers are not permitted.

(d) Vehicle Sales or Leasing, used.

(1) The standards for new vehicle sales or leasing will apply except as otherwise listed below:

i. The minimum lot size is 1.5 acres.

(2) The lot must contain a permanent structure to be used as a business or sales office. The use of a temporary structure such as a canopy, shed or similar structure is not permitted

(3) Vehicle display areas may not be artificially elevated above the general topography of the site.

(4) No used vehicle sales or leasing establishment may be located within 1,320 feet of another vehicle sales or leasing establishment, new or used, as measured along the public right of way from closest property line to closest property line.

(5) The minor service and repair of vehicles sold on the property is permitted as an accessory use provided that such activity is conducted within an enclosed building or service bay. The use of a temporary structure such as a canopy, shed or similar structure for the servicing of vehicles is not permitted.

(e) Vehicle Service and Repair, minor.

(1) The minimum lot size is 1 acre.

(2) Establishments for minor vehicle service and repair must provide a parking plan to the Director for review and approval. Such plan shall indicate areas for employees, patrons, and inventory and must be clearly marked in accordance with Section 13-4-4.

(3) The outdoor storage of vehicles outside of standard operating hours is not permitted.

(4) A landscape strip at least 10 feet in width shall be installed along the side and rear property lines.

(f) Vehicle Service and Repair, major.

(1) The minimum lot size is 2 acres.

(2) Establishments for major vehicle service and repair must provide a parking plan to the Director for review and approval. Such plan shall indicate areas for employees, patrons, and inventory and must be clearly marked in accordance with Section 13-4-4.

(3) No major vehicle service and repair establishment is permitted within 1,320 feet of another major vehicle service and repair establishment, new or used, as measured along the public right of way from closest property line to closest property line.

(4) The outdoor storage standards of Section 9-10-13 apply.

(5) A landscape strip at least 25 feet in width shall be installed along the side and rear property lines. A natural buffer may be substituted upon approval from the Director.

(6) When abutting a residential district or use the following shall apply:

i. The outdoor storage of vehicles must be setback 50 feet from any side and rear property line.

CHAPTER 9-8 INDUSTRIAL USE STANDARDS

Section 9-8-1. Aircraft Landing Area.

No person shall construct or use or authorize the construction or use of an aircraft landing area (including private use heliport) on any property owned, leased, or controlled by such person, unless and until the following requirements are met:

(a) No person shall use or authorize the use of an aircraft landing area on any property owned, leased, or controlled by such person until such person has obtained liability insurance coverage on the operation and use of such area. Such coverage shall be obtained from an insurer authorized or licensed to transact insurance business in Georgia and shall provide a minimum liability coverage of at least $500,000 per claim.

(b) The proposed aircraft landing area shall be of sufficient size to meet the Federal Aviation Administration requirements for the class of airport or aircraft landing proposed, and it must be approved by the Federal Aviation Administration or other agency of the federal government with jurisdiction. There shall be sufficient distance between the end of each landing strip and the property boundary to satisfy the requirements of the Federal Aviation Administration.

(c) There shall be no existing or proposed flight obstructions such as towers, chimneys or natural obstructions outside the proposed aircraft landing area which would be in the approach zone to any of the proposed runways, landing strips, or landing areas. In cases where air rights or easements have been acquired from the owners of abutting properties to protect approach zones, satisfactory evidence thereof shall be submitted with the application.

(d) The owner of the aircraft landing area shall erect a safety barrier around the peripheral area surrounding the takeoff and landing area. The safety barrier shall be a fence, wall or hedge no less than 3 feet in height and fully enclosed with a self-locking gate.

(e) An environmental impact report shall be submitted, addressing whether the facility is consistent with the comprehensive plan; whether the use will have an adverse impact on the surrounding area; and whether the noise level will impact the surrounding area. Additionally, the applicant shall submit a plan with any mitigation techniques that may be required. The Director shall review the environmental impact report, evaluate proposed mitigating techniques, and determine the sufficiency thereof, require any additional information relevant to the application, and make a recommendation to the Governing Body regarding approval or denial of the special use application.

(f) In approving an aircraft landing area, the Governing Body may provide that the approval is conditioned on measures or restrictions designed to mitigate any negative impacts of the use. The proposed location of an aircraft landing area within 600 feet of a residential zoning district or existing residential use may form the basis for denial of the application.

Section 9-8-2. Heavy Industrial.

(a) Borrow Site.

(1) A natural or landscaped buffer of at least 50 feet shall be provided along all property lines, except for areas of ingress or egress to the site.

(2) Borrow sites must be associated with an active construction permit issued by the City.

(3) Permits for borrow sites shall be active a period of 6 months from the date of issuance. The Director may extend the permit when provided evidence that a longer period of time is necessary for the operation of the site.

(4) A reclamation and rehabilitation plan must be submitted and shall include a detailed procedure for the rehabilitation of excavated land, the future use of the land, the type of ground cover, fill, and landscaping, methods for disposing of all equipment and structures, and an estimate of the timing of phases of rehabilitation including estimated time of completion.

(5) Stockpiles or storage of extracted materials shall not exceed 35 feet in height above the original contour.

(b) Food Processing Plant.

(1) The minimum lot size is 5 acres.

(2) Loading zones and areas for truck turnarounds and truck queuing must be separate from employee parking and must be provided on-site. No public right-of-way shall be used for these purposes.

(3) Access shall only be provided be from an arterial or collector street.

(4) Any noise, dust or odors shall be subject to the regulations established in the City's Code of Ordinances and this ULDC, as may be amended from time to time.

(c) Resource Extraction, Mining or Quarrying.

(1) All applicants for resource extraction shall submit to the Director the following information for review:

i. A copy of the recorded plat for the subject property.

ii. A site plan identifying areas proposed for the handling and storage of overburden, by-products, or excavated materials including the estimated type and volume of extraction.

iii. An operations plan, which shall include: the date of commencement of operation and its expected duration; proposed hours of operation, which shall not be permitted to include the hours of 7:00 p.m. to 7:00 a.m. daily, Sundays, and national holidays.

iv. A copy of all documents submitted or prepared for submission to the Georgia Department of Natural Resources for the purpose of obtaining a state mining permit.

v. A statement from the Georgia Department of Transportation which shall identify any state-maintained road within or adjacent to the subject property, and which shall identify any repaving, repairs, alterations, turning lanes, or other additions necessary to accommodate the potential increase in traffic volume or weight occasioned by the proposed operations.

vi. A statement from the Director of Public Works or other qualified professional which identifies all city roads within or adjacent to the property and which shall identify any repaving, repairs, alterations, turning lanes, or other additions necessary to accommodate the potential increase in traffic volume or weight occasioned by the proposed operations.

vii. A statement as to the intended use or production of explosives or other hazardous materials and the methods and procedures proposed for the handling, use, storage, and disposal of such materials.

viii. A reclamation and rehabilitation plan, which shall include a detailed procedure for the rehabilitation of excavated land, the future use of the land, the type of ground cover, fill, and landscaping, methods for disposing of all equipment and structures, and an estimate of the timing of phases of rehabilitation including estimated time of completion.

(2) Roads within the excavation site intended to be used for a period to exceed one year shall be surfaced with a dust-free material.

(3) All other roads within the excavation site shall be treated with dust inhibitors to reduce the generation of dust due to wind or vehicular action.

(4) The proposed extraction shall not take place within 100 feet of any property line.

(5) Product piles, spoil piles, and other accumulations of by-products shall not be created to a height more than 35 feet above the original contour.

(6) Blasting operations shall only be permitted between the hours of 8:00 a.m. to 7:00 p.m.

Section 9-8-3. Light Industrial.

(a) Brewery, Winery, or Distillery.

(1) Any brewery, distillery, or wine manufacturing facility shall comply with state law and Department of Revenue licensing requirements.

Section 9-8-4. Storage Lot or Yard.

(a) General Storage Lot.

(1) Outdoor storage areas shall be screened from view from any public right-of-way with a continuous evergreen hedge at least 36 inches in height at the time of planting. A wall at least 6 feet in height may be substituted for landscape screening upon approval from the Director.

(b) Impound Lot.

(1) Areas used for the storage of vehicles shall be screened from view with a fence or wall at least 6 feet in height.

(2) No impound lot shall be located within 500 feet of a residential district or use.

(c) Truck Yard.

(1) The minimum lot size is 2 acres.

(2) Parking or storage may be overnight but shall not exceed a period of 48 hours.

(3) No loading or unloading may occur on the premises.

(4) No truck yard shall be located within 500 feet of a residential district.

Section 9-8-5. Warehouse and Distribution.

(a) Data Center.

(1) No data center shall be located within 500 feet of a residential district or use.

(2) All accessory utility infrastructure shall be screened with a solid fence or wall at least 8 feet in height.

(3) A natural buffer at least 250 feet in width is required along all property lines not adjacent to a street.

i. When adjacent to property zoned for residential use, the natural buffer shall be at least 500 feet in width.

ii. When adjacent to property zoned L-I or H-I, or a planned district that includes data centers as a permitted use, no buffer is required along the shared property line.

(4) A landscape buffer at least 50 feet in width shall be provided along all property lines adjacent to a street.

(5) All exterior lighting shall comply with applicable City and State regulations concerning illumination levels, shielding requirements, and fixture specifications.

(6) Facilities may not emit noise that exceeds 70 decibels (db) measured at the interior of the required buffer. With an application for Special Use, a sound study of the proposed property shall be submitted showing ambient noise levels at the exterior property line prepared to industry standards. If noise levels exceed the allowable threshold, the developer or property owner shall implement mitigation measures including, but not limited to, acoustically treated enclosures for generators, cooling systems, and other operations equipment. All mitigation measures shall be designed to attune sound impacts on adjacent property which can be achieved through directing sound upward or other methods. Prior to the issuance of a Certificate of Occupancy for each building and with all systems functioning, a sound study showing compliance with this section shall be provided to the Director. Said study shall follow industry standards.

(7) All mechanical equipment, whether roof or ground mounted, visible to adjacent property or roads, shall be screened using opaque fences or walls. Mechanical equipment includes, but is not limited to, meter boxes, utility conduits, HVAC equipment, vent and exhaust pipes, and cooling towers. Where air flow is desired, perforated brick walls and other methods may be considered.

(8) All generators shall be located away from any adjacent property, to the interior of a site or proposed building complex, and shall not be placed within a buffer or building setback. Generator testing will only be allowed between the hours of 9:00AM and 5:00PM for no more than two hours daily on weekdays only and shall not occur on Federal holidays. Testing is further limited to once per calendar month. Except for generator testing or commissioning activities, generator use is limited to backup/emergency use only.

(9) Any upgrades required to utilities shall be the sole responsibility of the applicant.

i. Prior to issuance of a land disturbance permit or building permit, whichever occurs sooner, for the site, a letter from the electrical utility provider shall be submitted to the Director verifying that the owner, operator, or developer is in compliance with all policies, procedures, and guidelines provided by the provider.

(10) The development shall not utilize wells to provide water for any purpose. Development of this use is limited to areas that are served by City of Gainesville Water Utility.

(11) The development shall meet all local, state, and federal requirements in regard to applicable environmental regulations.

Section 9-8-6. Waste Related Services.

(a) Junk or Salvage Yard.

(1) All such uses shall be at least 500 feet from any single-family or multi-family residential zoning district boundary.

(2) All such uses shall be screened by a solid fence or wall at least 8 feet in height. The screening fence or wall shall be located to the inside of the landscape strip required by this section.

(3) A landscape strip at least 10 feet in width shall be provided along the rear and side property lines, and landscape strip at least 20 feet in width shall be required along the front property line.

(b) Landfill, construction and demolition.

(1) Vehicular access shall only be provided from an arterial or collector street. Access shall not be allowed through any residential subdivision or residential development.

(2) The entire landfill shall be screened from view from all property lines with a natural, undisturbed buffer at least 100 feet in width.

(3) A solid fence or wall at least 8 feet in height shall be required inside buffers adjacent to any property line abutting a residential use or district.

(4) The owner shall provide the Director with a current copy of a Georgia solid waste handling permit, or pending application thereof, prior to applying for a land disturbance permit.

(5) Vehicles shall be allowed into a landfill site only if waste is covered to prevent loss of material from the vehicle.

CHAPTER 9-9 AGRICULTURAL USE STANDARDS

Reserved.

CHAPTER 9-10 ACCESSORY USE STANDARDS

Section 9-10-1. General Standards.

(a) Allowed accessory uses include those listed in this section and additional accessory uses as interpreted by the Director.

(b) Accessory uses, buildings, and structures shall be located in a rear yard or side yard, except for well houses which may be located in front yards.

(c) Accessory buildings shall not exceed 24 feet in height and two stories, or the height of the principal residential building, whichever is less.

(d) The area of an accessory building or structure shall not exceed 50% of the footprint of the principal building to which it is accessory. Where more than one accessory building or structure is provided on a given lot, the total area of all accessory buildings or structures shall be included.

(e) Any accessory building or structure exceeding 200 square feet shall be constructed of exterior materials compatible to the primary structure.

(f) If metal roofs are used, they shall not reflect light any more than the siding material used on the same building.

(g) When an accessory building is attached to a principal building by a breezeway, passageway, or similar means, the accessory building shall be considered part of the principal building.

Section 9-10-2. Accessory Apartment.

(a) Only one accessory apartment shall be permitted on a lot. An accessory apartment shall not be permitted on the same lot as a home occupation.

(b) One additional off-street parking space is required and shall be located to the side or rear yard.

(c) At least 300 square feet of heated floor area shall be provided per adult occupant. The heated floor area for an accessory apartment shall be at least 300 square feet and shall not exceed 900 square feet or the size of the principal dwelling, whichever is less.

(d) The entrance to an accessory apartment shall be from a rear or side yard and shall not face the street to which the principal dwelling is oriented.

(e) Accessory apartments, whether attached or detached, shall have exterior finishes or architectural treatments (e.g., brick, wood, stucco, etc.) substantially similar to those on the principal dwelling.

(f) The Hall County Environmental Health Department must certify that the septic tank facilities meet applicable countywide health rules; or if served by public water and/or sanitary sewer, the Gainesville Public Utilities Department must certify those utilities are adequate to serve both the principal dwelling and the accessory apartment.

(g) Either the accessory apartment or the principal dwelling unit shall be owner-occupied.

Section 9-10-3. Accessory Parking.

(a) The following standards apply to all accessory paring areas except those used for single-family dwellings.

(1) Parking areas shall not be used for the repair or dismantling of any vehicle, equipment, materials, or supplies.

(2) Parking areas shall not be used to store vehicles for sale, except for vehicular sales establishments. This provision shall not apply to the placing of a "For Sale" sign on or in one licensed vehicle, located in a private residential driveway and which licensed vehicle, boat, or other vehicle is owned by an occupant of said private residence.

(3) An attendant's shelter may be permitted for parking in nonresidential zoning districts, provided that such structure does not contain more than 50 square feet of gross floor area and is located at least 25 feet from the public right-of-way.

Section 9-10-4. Caretaker Residence.

(a) The Director may approve one residence or dwelling with a minimum gross floor area of 600 square feet within a principal building or in an accessory dwelling unit on the site of a commercial or industrial establishment as an accessory use, provided that the applicant supplies evidence of the need for full-time security or 24-hour on-site management.

Section 9-10-5. Community Recreation Facility.

(a) Community recreation facilities must be platted when a part of a subdivision or part of the development plan for a multi-family residential development.

(b) All exterior lighting shall require a lighting plan to be submitted and approved prior to installation in accordance with Chapter 13-7 of this ULDC.

(c) Swimming pools and tennis courts shall be setback a minimum of 25 feet from all property lines, with a minimum 10-foot-wide landscape strip along all property lines in accordance with Section 13-2-4 of this ULDC.

(1) All swimming pools must be completely surrounded by an enclosure. The enclosure must be an unclimbable fence, wall or building at least 4 feet in height. Fences or walls must have a self-closing, latching gate which must remain locked when the pool is not in use.

(d) Buildings (excluding accessory structures) shall be setback a minimum of 25 feet from the property line. If outdoor patio or decks are provided, they shall be located no closer than 25 feet from the property line of the tract and a minimum 10-foot-wide landscape strip shall be provided between said outdoor patio or deck and the property line.

(e) Parking shall be provided per the requirements of Chapter 13-4 of this ULDC.

Section 9-10-6. Drive-Through Facility.

(a) No drive-through may be located within 20 feet of a residential district or use.

(b) When located adjacent to a residential zoning district or use, volumes must be monitored and controlled to minimize audible sound from any loudspeaker at the property line. Prior to operation, or to mitigate unwanted noise after commencement of a drive-through operation, the Director may require noise attenuation to be installed on the site with the exterior loudspeaker, if volumes cannot be reduced below those audible at the property line, or if buffers are inadequate to mitigate noise from the exterior loudspeaker.

Section 9-10-7. Family Day Care Home.

(a) A family day care home shall be subject to the standards for home occupations in Section 9-10-9 of this ULDC.

Section 9-10-8. Guest House.

(a) Only one guest house shall be permitted on a lot.

(b) The guest house shall have an architectural design and exterior building materials that are compatible with the principal building. The guest house shall meet all building code requirements.

(c) A guest house shall be permitted only on a lot having at least 21,780 square feet in area (0.5 acres).

(d) The guest house must be located to the rear of the principal building and separated by a distance of at least 20 feet.

(e) The heated floor area of the guest house may not exceed the size limitations of Section 9-10-1.

(f) Guest houses shall not be rented or otherwise used as a dwelling, except for non-paying guests or domestic employees residing on the premises.

Section 9-10-9. Home Occupations.

(a) General Provisions.

(1) No more than two home occupations may be established in a single dwelling.

(b) Physical Limitations.

(1) The gross floor area of a dwelling unit devoted to a home occupation shall not exceed 1,000 square feet or 30% of the gross floor area of the dwelling, whichever is less.

(2) An accessory building may be used for the home occupation, but in no case shall the total area within the accessory building devoted to such use be greater than 500 square feet.

(3) If part of the dwelling unit and an accessory building are devoted to a home occupation, no more than 1,000 square feet of combined gross floor area shall be used for such activity.

(c) Alterations to the Dwelling.

(1) No external alterations inconsistent with the residential use of the dwelling or accessory building are permitted.

(d) Vehicles kept on site in association with the home occupation shall be used by residents only. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation. Incoming vehicles related to the home occupation, if any, shall be parked within the confines of the residential driveway or other on-site permitted parking.

(e) There shall be no nonresident persons on the premises in conjunction with the home occupation, except for family day care homes. Home occupations including medical, professional or personal services uses involving visits by patrons shall require special use approval from the governing body and shall be limited to no more than two nonresident persons on the premises at the same time in conjunction with the home occupation whether they are students, clients, patients, or customers.

(f) The transporting of goods by commercial truck in connection with a home occupation is prohibited.

(g) No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance.

(h) There shall be no exterior lighting of the building or property that is not in character with a residential neighborhood.

(i) No equipment that interferes with radio or television reception shall be allowed.

(j) Home occupations must exclude the use of machinery or equipment that emits sound that is detectable by normal human senses beyond the property. Chemical, electrical, or mechanical equipment that is not customarily a part of domestic or household equipment and which is used primarily for commercial purposes is prohibited.

(k) There shall be no signs permitted in conjunction with a home occupation, whether placed on the premises or on a vehicle parked on the premises. This shall not be construed as limiting a property owner from erecting signs permitted on the lot pursuant to Article 14 of this ULDC.

(l) Only occupants of the dwelling and on additional employee, consultant, or agent or subcontractor shall be authorized to work on the premises in connection with a home occupation. Any occupational licenses, including business registrations, required by the state or city must be obtained. Proof of state registration, if required for the home occupation, shall be submitted prior to the issuance of a business registration.

(m) There shall be no activity associated with the home occupation visible outside the dwelling.

(n) There shall be no exchange of merchandise of any kind on the premises. Incidental storage of products which must be mailed or shipped to the customer is permitted.

(o) The following uses are specifically prohibited as home occupations:

(1) Vehicular sales, service or repair, except for off-site or mobile operations;

(2) Eating and drinking;

(3) Animal care, indoor or outdoor;

(4) Commercial or catering kitchen;

(5) Funeral homes;

(6) Retail or wholesale shops;

(7) Machine shops;

(8) Special event facilities; and

(9) Lodging services.

(p) All home occupations shall be subject to the Director's approval. The applicant for a home occupation shall file for approval from the Director on forms provided by the city. Information required by the Director to approve a home occupation may include but is not limited to the following:

(1) Address and reference to recorded plat.

(2) A site plan of the lot on which a home occupation is proposed, showing the location of the principal building, accessory building if proposed to be used in conjunction with the home occupation, and parking areas. The Director may require the site plan to be based on a boundary survey or on an engineering scaled plat.

(3) Written narrative which shall at minimum describe the home occupation (use), hours of operation, and generally how the home occupation complies with this Chapter.

(q) The provisions of this Chapter may be modified or varied pursuant to application by the property owner for a special use, according to procedures specified in this ULDC.

Section 9-10-10. Keeping of Horses.

(a) At least 2 acres of land is required for each horse or equine stabled on the property.

(b) No building or structure for keeping horses or equines may be permitted within 200 feet of any property line.

Section 9-10-11. Outdoor Dining.

(a) Outdoor dining shall not encroach upon any public right-of-way, except as otherwise allowed by this ULDC.

(b) When located adjacent to a sidewalk, outdoor dining shall not impair the ability for pedestrians to use the sidewalk.

Section 9-10-12. Outdoor Display Areas.

(a) Outdoor display areas shall not be located within designated parking areas.

(b) Accessory outdoor display shall be limited to a maximum of 5% of the area of the primary structure.

Section 9-10-13. Outdoor Storage.

(a) Outdoor storage shall be located to the side or rear of the principal use.

(b) Outdoor storage areas shall be screened from view by a fence or wall at least 6 feet in height.

(c) Accessory outdoor storage shall not exceed the enclosed floor area of the principal use.

Section 9-10-14. Poultry Raising

(a) All poultry raising on residential property shall meet the requirements of the Gainesville Code of Ordinances, Part II, Title 4, Article II.

Section 9-10-15. Private Swimming Pool, Hot Tub, or Spa

(a) Swimming pools, hot tubs, or spas accessory to single-family dwellings are allowed in rear or side yards.

(b) All swimming pools, hot tubs, or spas shall be located at least 10 feet from any property lines.

(c) Swimming pools must be enclosed by a fence or wall at least 4 feet in height and maintained in good condition with a lockable gate. This requirement may be waived by the Director when the subject property is already fenced or enclosed.

Section 9-10-16. Retail or Restaurant, Accessory

(a) Accessory retail or restaurant uses shall be limited to no more than 15% of the gross floor area of the building.

(b) The activity must be conducted wholly within the building in which the principal use is located.

(c) No merchandise shall be stored or displayed outside the structure in which the principal use is located.

(d) The public entrance or entrances to the activity shall be from a lobby, hallway, or other interior portion of the structure in which the principal use is located, except for restaurants located within an office building or hotel which shall be permitted one exterior public entrance.

CHAPTER 9-11 TEMPORARY USE STANDARDS

Section 9-11-1. Construction Field Office.

(a) Approval by the Director and issuance of a permit by the Building Official is required. Said permit shall be temporary but renewable once after a period of 6 months. Said permit shall only be issued if plans and permit(s) have been approved for one or more permanent buildings on the subject property.

(b) Adequate water and sewage disposal for the structure must be approved by the Hall County Environmental Health Department or the Gainesville Department of Water Resources, whichever has jurisdiction.

(c) The Director is authorized to require additional installation standards to ensure compatibility of appearance and functional safety of the construction field office and the site on which it is located.

(d) Said temporary building or structure shall be removed from the site no later than upon the occupancy of the appropriate permanent building or structure intended for such use.

Section 9-11-2. Model Home, Temporary Sales Office.

(a) The model home shall be placed on a lot designated on the approved preliminary plat and shall be placed in a manner that meets the applicable zoning district dimensional requirements.

(b) After approval of a preliminary plat, an applicant shall be allowed 1 building permit for each 20 lots located in the proposed subdivision for the purpose of constructing a model home, provided that no more than 10 building permits for model homes are allowed within any one subdivision.

(c) Sales shall be limited to the lots and buildings within the subdivision where the model home is located.

(d) A manufactured home or portable building shall not be used as a model home or temporary sales office.

(e) The use of the model home for a sales office shall be discontinued no more than 30 days after Certificates of Occupancy have been issued on 90% of the lots in the subdivision.

(f) The model home shall comply with parking and applicable accessibility standards.

Section 9-11-3. Special Temporary Outdoor Event.

(a) The duration of the event shall not last longer than 15 consecutive days.

(b) Special temporary outdoor events shall not take place more frequently than four times in any calendar year for the same business or organization. Such events must be separated by at least 30 consecutive days.

(c) Adequate accessibility, parking and traffic maneuvering space must be located on the same property as the event.

(d) A special temporary outdoor event shall be considered and approved based on a site plan and letter of intent reflecting conformance to the above requirements. The application must address the dates of the event, hours of operation, placement of bathroom and other public facilities, parking, and security. The application must also address whether amplifying equipment will be used.

(e) A permit is required by the Police Department for a special temporary outdoor event. As part of the permit process, the Fire Department is required to inspect tents more than 120 square feet in size.

(f) A separate permit from the Building Inspections Department is required for tents more than 120 square feet in size.

(g) A food service permit from the Environmental Health Department may be required (if applicable).

(h) In addition to the above standards, temporary event applications for carnivals, circuses or festivals shall provide the following:

(1) Property owner authorization in the form of a notarized letter signed by the property owner.

(2) Evidence of liability insurance in an amount as determined by the City Attorney.

Section 9-11-4. Temporary Classroom.

(a) Temporary classrooms shall require a building permit. The Director may attach reasonable conditions on the issuance of such permit to ensure compatibility and public safety.

(b) The duration of such temporary use shall not exceed one year, unless an extension is granted by the Director.

Section 9-11-5. Temporary Storage Container

(a) Only one temporary storage container is allowed per lot.

(b) Temporary storage containers are authorized for a period of 90 days or less. The use of a temporary storage container for more than 90 days requires approval by the Director.

(c) Temporary storage containers must be located on private property and may not be located within 10 feet of the front property line.

(d) All temporary storage containers must be placed on a driveway or similar hardscaped area of the lot. The Director may waive this requirement provided that a suitable alternative location has been identified.

(e) No such container shall be used for the storage or refuse, waste, or other junked material.

Section 9-11-6. Yard Sale.

(a) Yard sales shall not exceed a period of 72 hours for each yard sale.

(b) A yard sale on a particular property shall not occur more frequently than four times during any 12-month period.

(c) All merchandise must be the property of those holding the sale and not be purchased for the purpose of resale.

(d) All onsite and offsite signage associated with the yard sale must be removed immediately following the conclusion of the event.

ARTICLE 10 NONCONFORMING LOTS, BUILDINGS AND USES

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CHAPTER 10-1 NONCONFORMING LOTS

Section 10-1-1. Nonconforming Lot Defined

(a) Nonconforming lot is defined as:

(1) A lot of record which legally existed prior to the adoption of this Unified Land Development Code but which, due to the adoption of this Ordinance, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay district in which the lot is located as established by this Ordinance; or

(2) A lot of record lawfully established after the effective date of this Unified Land Development Code which, due to an amendment to this Unified Land Development Code, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay district in which the lot is located.

(b) Three examples of nonconforming lots illustrate this definition.

(1) A lot that has an area of 18,000 square feet when a lot area of 20,000 square feet is required by the zoning district in which it is located is a nonconforming lot with regard to lot area.

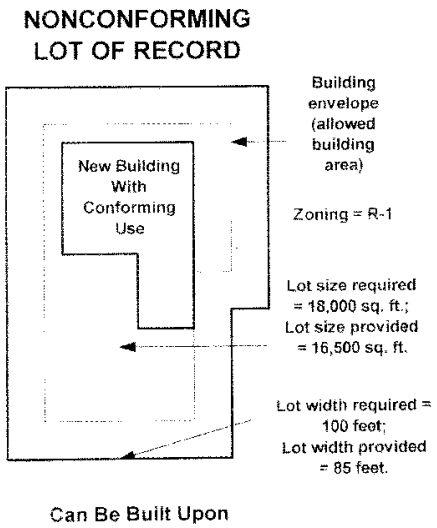
(2) A lot that has a width of 65 feet when the minimum established for the zoning district in which it is located is 100 feet is a nonconforming lot with regard to lot width.

(3) A lot that has only 30 feet of frontage when 40 feet is required is a nonconforming lot with regard to minimum required lot frontage.

Section 10-1-2. Development on Nonconforming Lots

(a) A nonconforming lot may be used as a building site, or a lawful use may be established thereupon, provided that the access, height, buffer, setback, and other dimensional requirements of the zoning district or overlay district in which the nonconforming lot is located are complied with or a variance is obtained, provided that the lot meets all the current standards and requirements of the Hall County Environmental Health Department unless connected to sanitary sewer.

For example, a lot that does not meet the minimum lot size or minimum lot width for the zoning district in which it is located can still be built upon but the minimum required zoning setbacks still apply. The variance process is a possible remedy, if this creates hardship.



(b) Lots which do not conform to the access or frontage requirements of this Unified Land Development Code may not be developed unless required access to a public street or an approved private street is provided directly or through a recorded easement.

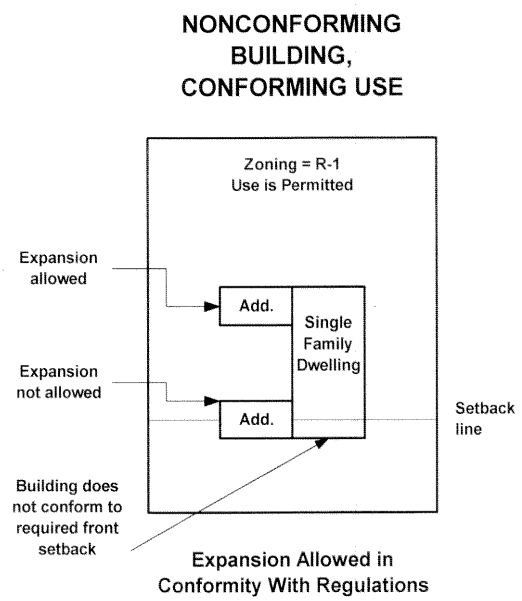
CHAPTER 10-2 NONCONFORMING BUILDINGS

Section 10-2-1. Definitions

Nonconforming building or structure: A building or structure that does not meet one or more height, setback, building coverage, or other dimensional requirements for the zoning district or overlay district in which said building or structure is located, or a building or structure occupied by a use subject to the provisions of Article 9-9 which does not meet one or more height, setback, building coverage, or other dimensional requirements for said use.

Section 10-2-2. Expansion

A nonconforming building or structure may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use permitted within the zoning district or overlay district in which the building or structure is located. Any such expansion, enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, building coverage, and other dimensional requirements for the zoning district or overlay district in which said non-conforming building or structure is located, and all other requirements of this Unified Land Development Code.



Expansion Allowed in Conformity With Regulations

To illustrate with examples, a building that has a front building setback of 15 feet, when a 30-foot front building setback is required, is a nonconforming building. It may still be expanded, but the building addition must meet the required front building setback of 30 feet. A building with a height of 40 feet may be expanded, but if the height limit for the zoning district in which it is located is 35 feet, it is a nonconforming building, and any building addition must observe that regulatory height limit. A building that exceeds the permitted maximum building coverage for the zoning district in which it is located is a nonconforming building that cannot be expanded, since any addition would increase the nonconformity.

Section 10-2-3. Replacement or Repair After Damage

Any portion of a building that meets the definition of a nonconforming building shall not be rebuilt, altered, or repaired after destruction or damage exceeding 60% of its replacement cost or square footage at the time of damage as determined by the Building Official, except in conformity with the dimensional requirements for the zoning district in which it is located and all other applicable regulations of this Unified Land Development Code.

CHAPTER 10-3 NONCONFORMING USES

Section 10-3-1. Definitions

(a) **Discontinuance**: A condition where the use of the property has stopped or the building has been vacant for 6 months or more. When a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed for at least 6 months, said lapse of business registration shall constitute discontinuance.

(b) **Nonconforming use**: A use or activity that was lawfully established prior to the adoption of this Unified Land Development Code, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right in the zoning district in which said use or activity is located.

Section 10-3-2. Owner Responsibilities

When questions arise as to whether a use constitutes a nonconforming use, it shall be the responsibility of the owner of a nonconforming use to prove to the Director that such use was lawfully established and existed on the effective date of adoption or amendment of this ULDC.

Section 10-3-3. Continuation

A nonconforming use may be continued except as otherwise provided in this Chapter. For example, a convenience store in an R-I-A zoning district is a nonconforming use, because it is not listed as a permitted use in that zoning district and may be continued subject to the limitations of this Chapter.

Section 10-3-4. Discontinuance

A nonconforming use shall not be re-established after discontinuance, as defined in this Chapter, unless the property owner proves to the Director that a diligent effort has been made to sell, rent, or use the property for the nonconforming use. If the Director determines that such diligent effort has been made, the owner may re-establish said nonconforming use or seek to re-establish said nonconforming use until the expiration of 6 months following initial discontinuance. If the nonconforming use is re-established under the provisions of this Section after discontinuance but prior to expiration of 6 months following initial discontinuance, said re-established nonconforming use may be lawfully continued.

For example, vehicular repair in a residential zoning district is a nonconforming use. It loses its privileges as a nonconforming use under the terms of this Chapter if it is discontinued. An applicant who can provide evidence he or she diligently tried to sell, rent, or use the property for the nonconforming use during that time period can petition the Director for relief (i.e., to retain privileges afforded said nonconforming use).

Section 10-3-5. Change of Use

A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.

For example, vehicular repair cannot be changed to a vehicular sales lot in an R-I-A zoning district because that would be a change from one nonconforming use to another. The vehicular repair could be sold to another individual or company and retain privileges as a nonconforming use, provided that the use is the same and not expanded or changed.

Section 10-3-6. Expansion

A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure.

For instance, an office building located in an R-I-A zoning district is a nonconforming use since it is not permitted outright in that zoning district. The building cannot be expanded under the terms of this chapter.

Section 10-3-7. Damage and Repair and Re-Establishment

(a) A nonconforming use shall not be re-established or repaired if the activity is destroyed or sustains damage exceeding 60% of its assessed value or square footage as determined by the Director.

(b) A building containing a nonconforming use shall not be rebuilt, altered, or repaired after destruction or damage exceeding 60% of its replacement cost or square footage at the time of damage as determined by the Building Official, except for a use which conforms with the zoning district in which said use is located provided such rebuilding, alteration or repair is completed within 12 months of such destruction or damage.

(c) Notwithstanding the foregoing provisions of this Section, a residential or office use that is a nonconforming use that operated within a conforming or nonconforming building may be re-established in such building sustaining damage exceeding 60% of its replacement cost or square footage at the time of damage as determined by the Building Official, provided the damaged nonconforming or conforming building containing such nonconforming use is repaired or rebuilt within 18 months following the date of damage.

Section 10-3-8. Unsafe Buildings

If a building, structure or part thereof is occupied by a nonconforming use or contained a nonconforming use which has been discontinued, and such building, structure, or part thereof is declared to be unsafe by the Building Official, then upon order of the Building Official, the strengthening or restoration to a safe condition of such building, structure, or part thereof shall be allowed and shall be made by the property owner in accordance with such order.

CHAPTER 10-4 CORRECTION OF NONCONFORMING SITUATIONS

Section 10-4-1. Definitions

Nonconforming situation: Any development, land improvement, or activity, not otherwise included within the definition of nonconforming lot, nonconforming building or structure, nonconforming use, or nonconforming sign, which does not meet the provisions of this Unified Land Development Code at the time of its adoption or amendment. Examples of nonconforming situations include but are not limited to, noncompliance with off-street parking regulations, access requirements, failure to adhere to landscape strip requirements, tree protection, and landscaping requirements.

Section 10-4-2. Intent

(a) It is the intent of this Chapter to require the complete correction of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation can physically be made to comply with the requirements of this Unified Land Development Code.

(b) It is the intent of this Chapter to require the reduction in the extent of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation cannot be physically be made to comply entirely with the requirements of this Unified Land Development Code.

(c) It is the intent of this Chapter to provide authority to the Director of Community and Economic Development to administer the provisions of this Chapter in a manner that meets these intentions stated in this Section, and that the Director exercise that authority, subject to more specific guidance as provided in this Chapter.

Section 10-4-3. Determination of Nonconforming Situations

(a) For any proposed building or development, or modification of a building or development, it shall be the duty of the Director to identify the extent to which the improvements on land on which the building or development is proposed constitutes a nonconforming situation, as defined in this Chapter. The Director shall conduct a review and identify such nonconforming situation(s), at the time plans for such proposed building or development are submitted for review, and at any earlier opportunity, if presented.

(b) In the event that one or more nonconforming situations are found to exist by the Director, they shall be documented and notice of the need to correct or reduce said nonconforming situations shall be provided by the Director to the building or development applicant.

Section 10-4-4. Standards of Review for Compliance

In determining the need to completely correct or reduce the noncompliance of nonconforming situations, the Director shall be guided by the following standards:

(a) Strict compliance. A standard of "strict compliance" (complete correction of all nonconforming situations) shall be applied by the Director where physical standards can clearly be made in the subject development proposal.

(b) Reasonable progress toward compliance. In lieu of strict compliance, a standard of "reasonable progress toward compliance" may be applied by the Director in cases where complete correction or compliance with the nonconforming situation cannot be achieved due to physical limitations with the property or building. In applying a standard of reasonable progress toward compliance, the Director shall have authority to approve the building, development, or improvement even though it does not meet a

standard of strict compliance, if the relief granted is the minimum necessary to effectuate the building, development, or improvement.

(c) Proportionality. Whenever something less than strict compliance is authorized by the Director, the Director in determining the amount or extent of compliance required, shall apply a standard of "proportionality," meaning that the scope, scale, extent and cost of requirements to correct nonconforming situations are more or less the same as the scope, scale, extent and cost of the improvement or development proposed.

Section 10-4-5. Appeal

Any decision of the Director of Community and Economic Development in administering and interpreting the provisions of this Chapter may be appealed by the applicant to the Planning and Appeals Board, within a period of 15 days following such decision, in accordance with the provisions of Chapter 18-7 of this Unified Land Development Code.

ARTICLE 11 SUBDIVISIONS AND LAND DEVELOPMENT

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CHAPTER 11-1 GENERAL PROVISIONS

Section 11-1-1. Purpose and Intent

This Article 9-11 is intended to serve the following purposes, among others:

(a) To protect and promote the health, safety and general welfare of the residents of the city;

(b) To encourage economically sound and stable land development;

(c) To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with public improvement plans of the city;

(d) To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments, especially for the purposes of assuring that all building lots will be accessible to firefighting equipment and other emergency and service vehicles;

(e) To assure the provision of needed open spaces and building sites in new land developments through conservation subdivision design and the dedication or reservation of land for recreational, educational, and other public purposes;

(f) To assure the adequate provision of water supply, sewage disposal, stormwater drainage, and other necessary improvements;

(g) To assure equitable handling of all subdivision plats and land development plans by providing uniform procedures and standards for the subdivider and land developer;

(h) To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the city;

(i) To assure the accurate description of property and adequate and proper identification of property in public records;

(j) To help conserve and protect the natural, economic and scenic resources of the city;

(k) To help eliminate the costly maintenance problems which develop when streets and lots are laid out without proper consideration given to various public purposes;

(l) To protect lot purchasers who generally lack the specialized knowledge to evaluate subdivision improvements and design.

Section 11-1-2. Delegation of Authority to Administrative Officers

The governing body hereby delegates to the appropriate administrative officers the authority to administratively approve, conditionally approve, or disapprove preliminary plats, final plats, lot combination plats, boundary line adjustments, and dedication plats; provided, however, such delegation does not authorize appropriate administrative officers to accept public improvements for the governing body. The Director of Community and Economic Development, the Director of Public Works, and the Director of Water Resources for the city are vested with the authority, as more fully described in this section and article, to review, approve, conditionally approve, or disapprove subdivisions and land development plans and permits.

(a) Director of Community and Economic Development. This administrative officer shall have final authority regarding the review and approval of land development plans and permits, preliminary plats and final plats.

(b) Director of Public Works. This administrative officer shall review land development plans and permits and review of streets and related public improvements and recommendations for acceptance of public improvements by the governing body. The Director of Public Works is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to streets, driveways, curb cuts related to traffic flow, and parking lots.

(c) Director of Water Resources. This administrative officer shall have final authority regarding the design of water, wastewater and stormwater for subdivisions and land developments. The Director of Water Resources is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to water, sanitary sewer and stormwater systems.

Section 11-1-3. Land is One Lot Until Subdivided

Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one lot, or as otherwise legally recorded.

Section 11-1-4. Subdivision of Land

(a) No person shall subdivide land except in accordance with this article and Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider, by deed or map, to sell, transfer, agree to sell, offer at public auction, negotiate to sell or subdivide any land until a preliminary plat, if required, and final plat have been approved by the Director of Community and Economic Development and final plat recorded in accordance with this article. Said restriction applies to lands subdivided for nonresidential as well as residential uses. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the transaction from this article or from the penalties established for violations of this Code. The city through its attorney or other designated official may enjoin such transfer of, sale, or agreement by appropriate action.

(b) The Community and Economic Development Department may require that a final plat for multiple (five or more) lots being subdivided off an existing road be validated by stamp from the Public Works Department. The Community and Economic Development Department may also require that any final plat be validated by stamp from the Department of Water Resources and/or Hall County Environmental Health Department.

Section 11-1-5. Reference to State and Federal Land Subdivision Laws

The subdivision of land shall comply, as applicable, with the federal and state full disclosure requirements for land sales. All subdivision plats shall also comply with applicable state law regarding accuracy and content of all such subdivision plats.

Section 11-1-6. Special Review of Subdivisions Along State Routes

(a) No subdivision plat containing land which abuts a state route shall be approved until such plat has been submitted for review and comment by the state department of transportation, in accordance with the provisions of O.C.G.A. 32-6-151.

(b) Upon receiving such a plat, the city shall submit two copies of the proposed subdivision plat to the State Department of Transportation if such proposed subdivision includes or abuts on any part of the state highway system. The state department of transportation, within 30 days of receipt of the plat, shall recommend approval and note its recommendation on the copy to be returned to the Director of Community and Economic Development or recommend rejection. Failure of the State Department of Transportation to act within this 30-day period shall constitute approval. If the plat is recommended for rejection, the reasons for rejection and requirements for approval shall be given the Director of Community and Economic Development in writing; but such recommendation shall be advisory only and shall not be binding on the Director or Planning and Appeals Board.

Section 11-1-7. Lots Must Comply with Zoning Requirements

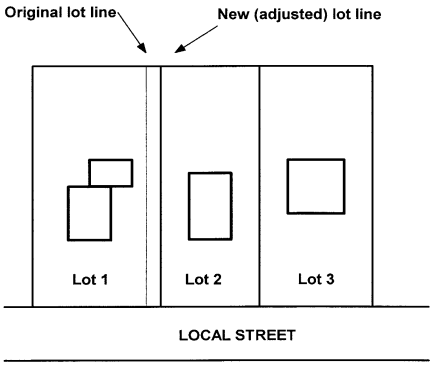
No person shall subdivide land, and the Director of Community and Economic Development shall not approve any subdivision of land, unless the lots created pursuant to said subdivision meet or exceed all applicable requirements of the zoning district and/or overlay zone, as applicable, and as may be amended from time to time.

Section 11-1-8. Improvements Required for Final Platting

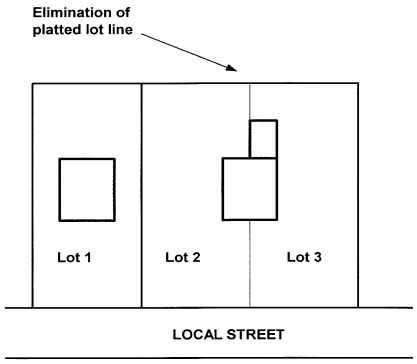
No final subdivision plat shall be approved by the Director of Community and Economic Development or accepted for recordation by the Clerk of Superior Court until all improvements required by this article have been constructed in a satisfactory manner and approved by the Director of Public Works or, in the case of drinking water, wastewater and stormwater improvements, the Director of Water Resources.

Section 11-1-9. Lot Combinations and Boundary Line Adjustments

An existing lot line forming the boundary between two conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one building lot may be removed or eliminated through a final plat revision process which conforms to the final plat requirements of Chapter 11-13. Where separate lots of land are proposed to be combined, they shall be submitted to the Director of Community and Economic Development as a final plat for review, approval and recording. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be required to be approved by the Director of Community and Economic Development and recorded as a final plat. Such combination plat shall be titled with the same name as that of the original subdivision, if applicable, and shall indicate that the replat is for the purpose of removing the lot lines between specific lots.



Boundary Line Adjustment



Lot Combination

One or more existing lot lines forming boundaries between conforming platted lots located within the same subdivision, or one or more lot lines between abutting lots or parcels may be adjusted through a final plat revision process that requires the approval of the Director of Community and Economic Development and recording of a plat meeting the specifications of a final plat. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat of the entire lots involved in the boundary line adjustment shall be required to be approved by the Director of Community and Economic Development and recorded. Such plat showing said boundary line adjustment shall be titled with the same name as that of the original subdivision and shall indicate that the replat is for the purpose of adjusting the lot lines between specific lots.

Section 11-1-10. Recordation and Transfer of Land

(a) All plats shall be recorded in accordance with O.C.G.A. § 15-6-67 and digitally recorded with the Georgia Superior Court Clerks' Cooperative Authority.

(b) The Clerk of Superior Court of Hall County shall not file or record a plat that would result in the division of a property into two or more lots that does not have the approval of the city as required by this article. The Clerk of Superior Court of Hall County shall not file or record a plat of a subdivision, whether evidenced as a plat or as an attachment to a deed, unless such plat is a final plat approved for recording by the Director of Community and Economic Development or designated representative and contains said officer's signature thereon.

(c) Any deed or other instrument of conveyance, including a security deed, bond for title, or any other document purporting to convey, then or in the future, title to real estate, filed for record with the clerk of the superior court, wherein the property to be conveyed is described in some manner other than by reference to a recorded plat, shall be accompanied by a certificate signed by the party filing such deed or other instrument, which certificate shall be in the following form:

I, _____, do hereby certify that the instrument herewith filed for record in the Office of the Clerk of the Superior Court of Hall County, Georgia, does not involve the subdivision of property and does not subdivide a tract of land into two or more tracts or lots.

This ____ day of _____, 20___.

_____ (Signature)

Section 11-1-11. Exemptions from Plat Approval

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this article; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of this article or compliance with other applicable requirements of this Code:

(a) The creation and sale of cemetery plots.

(b) The sale of lots consistent with previously approved and recorded plats or deeds.

(c) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use.

(d) The creation of leaseholds (but not for sale) for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agricultural use of the land or crops or livestock raised thereon.

(e) Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the city to issue permits if the resulting lots or parcels fail to meet any applicable zoning provisions regarding lot size, lot width, or other dimensional requirements.

Section 11-1-12. Development of Land

No person shall disturb or develop land except in accordance with this article and this Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider to disturb or develop any land until land development plans have been approved by the city and a land development permit issued, if required, in accordance with this article and this Code. No person shall commence construction of any improvements on any lot, prior to the approval of a preliminary plat if required by this article, nor prior to approval of submission of civil drawings and construction plans and issuance of a land development permit for said improvements as required by this article and Code.

CHAPTER 11-2 DEFINITIONS

Section 11-2-1. Terms Related to Streets

(a) **Access**: A way or means of approach to provide physical entrance to a property.

(b) **Arterial street**: See "Street classifications."

(c) **Center line**: That line connecting the succession of midpoints between the identifiable limits of any improvements on the ground or of any easement.

(d) **Collector street**: See "Street classifications."

(e) **Cul-de-sac**: A dead-end street of limited length having a primary function of serving adjoining land, and constructed with a turnaround at its end.

(f) **Cul-de-sac, temporary**: A non-permanent vehicular turn around located at the termination of a street or alley, created for construction and not accepted as a public improvement.

(g) **Curb cut**: Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property. May also refer to an opening in the curb that allows stormwater to flow into a landscaped area or best management practice.

(h) **Dead-end street**: A street connected to another street at only one end.

(i) **Deceleration lane**: An added roadway lane, of a specified distance and width and which may include a taper, as approved by the city engineer, which permits vehicles to slow down and leave the main vehicle stream.

(j) **Decentralized wastewater system**: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

(k) **Deflection angle**: The angle between a deviation in the direction of the center line of a street and the extension of the center line along a straight course from the point from which the center line changed direction.



(l) **Design variance**: An alteration or relaxation of the terms of this article where such alteration will not be contrary to the public interest, convenience and welfare, and where, owing to conditions peculiar to the property over which the applicant for a variance has no control, a literal enforcement of these regulations would create unnecessary and undue hardship on the applicant in the use of the property.

(m) **Development**:

(1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center;

(2) Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials;

(3) The act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

(n) **Development site**: Any and all areas within which "development" takes place.

(o) **Driveway**: A constructed vehicular access serving one or more properties and connecting to a public or private street, as distinguished from a platted, public or private street.

(p) **Half street**: A portion of the ultimate width of a road or street where the remaining portion of the road or street shall be provided at a future date.

(q) **Major street or major thoroughfare**: An arterial or collector street (see "Street classifications").

(r) **Pedestrian way**: A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which, in addition to providing pedestrian access, may be used for the installation of utility lines.

(s) **Reserve strip**: A strip or tract of land reserved for the purpose of controlling or limiting access from properties to abutting streets.

(t) **Right-of-way**: Land reserved for and immediately available for public use as a street or other purpose.

(u) **Roadbed**: That portion of a street improved for vehicular travel, including the curbs and shoulders.

(v) **Roadway**: The paved portion of a street improved for vehicular travel, measured from back of curb to back of curb.

(w) **Sidewalk**: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a street.

(x) **Street**: An improved way for the conveyance of motor driven, rubber-tired vehicles, such as automobiles and trucks.

(y) **Street classifications**: Streets are classified according to the function that they are to serve, the type, speed, and volume of traffic they will carry and the required standards of design. The classifications and locations of major thoroughfares are shown in the comprehensive plan. The classifications of streets and roads are generally as follows:

(1) **Expressways**: Limited access Interstate highways.

(2) **Arterial streets**: State and U.S. numbered highways.

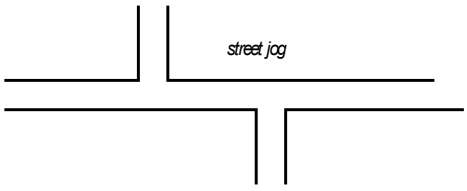
(3) **Marginal-access streets**: Streets that are placed parallel and adjacent to expressways or arterials to provide direct access to abutting properties.

(4) **Collector streets**: Major streets that carry traffic between neighborhoods and arterial streets, serve nonresidential or multi-family areas or developments, and streets within a residential subdivision that collect traffic from one hundred (100) dwelling units or more.

(5) **Local streets**: Streets in residential subdivisions and some nonresidential areas that primarily provide access to individual lots, do not carry through traffic, and serve fewer than one hundred (100) dwelling units.

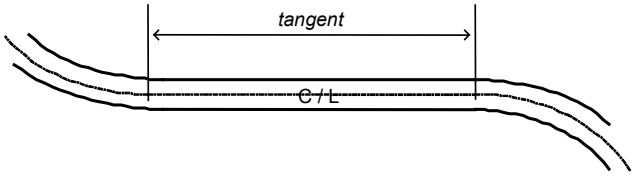
(6) **Alleys**: Public or private ways, whether unopened or opened for use, which afford only a secondary means of access to abutting property.

(z) **Street jog**: The incidence where two (2) streets or two (2) portions of a single street are separated by a relatively short distance, usually at their intersection with another street.



(aa) **Street, private**: A road or street that has not been accepted for maintenance by the governing body and that is not owned and maintained by a state, county, city, or another public entity.

(bb) **Tangent**: The straight-line distance between the ending of one curve of a line (center line of a street) and the beginning of another curve of the same line (center line).

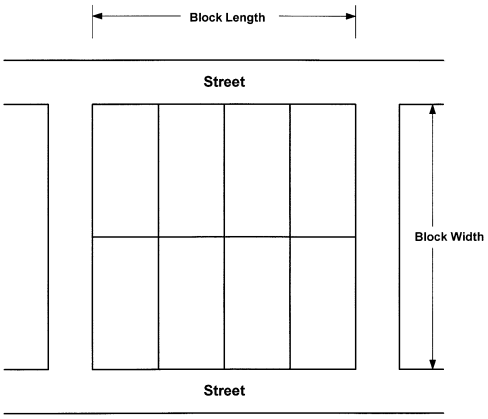


Section 11-2-2. Terms Related to Subdivisions

(a) **Block**: An area of land that is entirely surrounded by streets, public lands, railroad rights-of-way, watercourses, or other well defined and fixed boundaries.

(b) **Conservation subdivision**: A subdivision where open space is the central organizing element of the subdivision design, that identifies and permanently protects all primary and all or some of the secondary conservation areas within the boundaries of the subdivision, and that clusters housing together on smaller lots than in conventional subdivisions.

(c) **Dedication**: The deliberate appropriation of land by an owner for any general and public use or purpose, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.



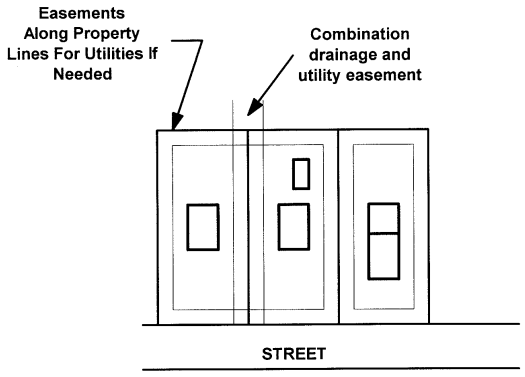
Block, Block Length, and Block Width

(d) **Dedication plat**: A plat that indicates property to be dedicated for public right-of-way or land for public use, drawn to final plat specifications and following procedures for final plat approval.

(e) **Easement**: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

(f) **Easement, perpetual**: An easement held in perpetuity.

(g) **Escrow account**: A type of subdivision improvement guarantee where the subdivider deposits either cash, a note, a bond, or some other instrument readily convertible to cash for specific face value specified by the Director of Public Works or designated official of the city to cover the costs of required improvements.



Easements

(h) **Final plat**: The final drawing of a subdivision and, as applicable, dedication, prepared for filing for record with the clerk of the Hall County Superior Court, and containing all elements and requirements set forth in this article.

(i) **Homeowners association**: An organization formed for the maintenance and operation of the common areas of a development, where membership in the association is automatic with the purchase of a

dwelling unit or lot within the development, with the ability to legally assess each owner of a dwelling unit or lot and which has authority to place a lien against all dwelling units and lots within the development.

(j) **Letter of credit**: A type of subdivision improvement guarantee whereby a subdivider secures an instrument from a bank or other institution or from a person with resources sufficient to cover the cost of improvements required by the governing body. The instrument pledges the creditor to pay the cost of improvements in case of default by the subdivider.

(k) **Lot of record**: A lot which is part of a subdivision, a plat of which has been lawfully recorded in the records of the Clerk of Superior Court of Hall County; or a lot described by metes and bounds, the description of which has been lawfully recorded in the same office prior to the adoption of zoning in the City (June 20, 1955).

(l) **Lot**: See Chapter 9-2-2 for all lot related definitions.

(m) **Metes and bounds**: A system of describing and identifying land by a series of lines around the perimeter of an area; “metes” means bearings and distances and “bounds” refers to physical monuments.

(n) **Municipal utility**: A utility owned and operated by a local government and providing drinking water, wastewater and stormwater management facilities and services.

(1) **Sewer system**: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by the city Department of Water Resources.

(2) **Water system**: A system for the intake, treatment and distribution of potable water that is owned and operated by the city Department of Water Resources.

(3) **Stormwater system**: A system of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff, that is owned and operated by the city Department of Water Resources.

(o) **Performance bond**: A type of improvement guarantee in the form of a bond, secured by the subdivider or land developer from a bonding company, in an amount specified by the Director of Public Works or designated official of the city to cover the costs of required improvements, and payable to the governing body. The governing body may call in the performance bond in the event the subdivider or land developer defaults on required improvements.

(p) **Preliminary plat**: A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate its general design.

(q) **Private utility**: A utility owned and operated by a private service company providing cable television and internet services.

(r) **Protective covenants**: Contracts made between private parties as to the manner in which land may be used, with the view toward protecting and preserving the physical and economic integrity of any given area.

(s) **Public improvement**: The acquisition, construction, building, operation, and maintenance of public ways, transportation facilities, parks and playgrounds, recreational facilities, cemeteries, mausoleums, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, and corrective agencies and facilities.

(t) **Professional engineer**: An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the state.

(u) **Public utility**: A utility owned and operated by a public service company providing telecommunications, electric or natural gas services under the regulations of the Georgia Public Service Commission.

(v) **Publicly dedicated**: Land or improvements that has or have been transferred by plat or deeded to and accepted by the city for public use and maintenance.

(w) **Registered land surveyor**: A land surveyor licensed and registered to perform the duties of a registered land surveyor (R.L.S.) by the state.

(x) **Reservation**: A method of holding land for future public use or dedication to the public by showing proposed public areas on a subdivision plat or a corridor map.

(y) **Septic tank**: An approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as decentralized wastewater system, or on-site wastewater disposal system.

(z) **Subdivider**: Any person, as defined by this Code, who undertakes the subdivision of land, and any person having such a proprietary interest in land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this Code, or the authorized agent of such person.

(aa) **Subdivision**: The division of a property or tract of land into two or more tracts or lots; or a land development project in which two or more lots are created, along with the streets and utilities needed to support construction of buildings on the lots. The word "subdivision" includes re-subdivision and, when appropriate to the context, relates either to the process of subdividing or to the actual land or area which is subdivided.

(1) **Subdivision with public improvements**: The division of land into two or more lots that will require the construction or extension of public streets, water or sanitary sewerage (other than the direct connection of buildings to existing facilities).

(2) **Minor subdivision**: The division of land into two or more lots, each of which will be adequately served by existing public streets, water and sanitary sewerage and that does not involve a public dedication.

(bb) **Utilities**: All public, private, and municipal, above or below ground, infrastructure systems providing water, stormwater, sanitary sewer, natural gas, electricity, telecommunications, cable television or internet, services; or any other service controlled by the State public services commission.

(cc) **Utility Lines**: Linear features of utilities, such as pipes, conduit or cables, as well as junctions and ancillary facilities.

CHAPTER 11-3 DESIGN REQUIREMENTS FOR BLOCKS AND LOTS

Section 11-3-1. Suitability of Land

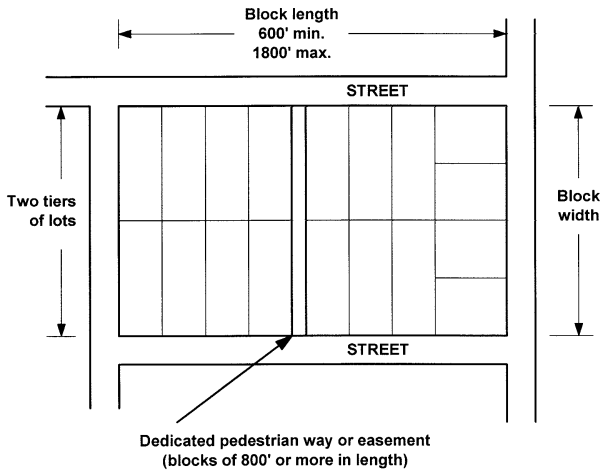
Land physically unsuitable for subdivision or development because of flooding, poor drainage, steep slopes, rock formations or other such features that may endanger health, life or property, aggravate erosion, increase flood hazard, or necessitate excessive expenditures of public funds for supply and maintenance of services shall not be approved for subdivision or development unless adequate methods are formulated by the subdivider or developer for solving the problems.

Section 11-3-2. Conformance with Comprehensive Plan

All proposed subdivisions shall conform to the Comprehensive Plan and development policies in effect at the time of submission to the Director of Community and Economic Development.

Section 11-3-3. Block Lengths and Widths

(a) Intersecting streets shall be provided at such intervals so as to provide adequate cross traffic and connectivity. Blocks in residential subdivisions should not exceed 1,800 feet nor be less than 400 feet in length, except where topography or other conditions justify a departure from these standards. In blocks longer than 800 feet, pedestrian ways and/or easements through the block shall be required near the center of blocks.



Block Length, Block Width, and Pedestrian Way

(b) In addition, for blocks longer than 800 feet in length, the Director of Community and Economic Development may require one or more public easements of not less than 20 feet in width to extend entirely across the block for fire protection or utilities.

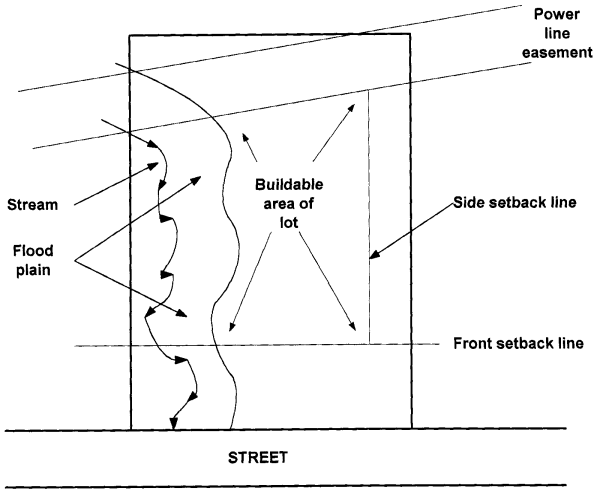
(c) The width of the block shall be sufficient to allow two tiers of lots of appropriate depth, except where reverse frontage lots on arterial streets are provided, or when prevented by topographic conditions or size of the property, or for lots along the periphery of the subdivision, in which case the Director of Community and Economic Development may approve a single row of lots. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

Section 11-3-4. Width, Depth, and Size

(a) Residential lots shall have a depth not greater than three times the width of the lot at the building line, unless unusual circumstances make these limitations not practicable. Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.

(b) Where individual septic tanks are used, the Hall County Environmental Health Department shall approve minimum lot sizes to conform to health standards of the Georgia Department of Public Health and the county.

(c) Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended.



Adequate Building Area Required

(d) Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or required building setback lines.

Section 11-3-5. Lot Lines

All side lot lines shall be perpendicular to street lines, and all rear lot lines shall be parallel or radial to street lines, unless not practicable because of topographic or other features.

Section 11-3-6. Building Lines

A building line, meeting or exceeding the front building setback requirements of the zoning district in which the lot is located, shall be established on all lots.

Section 11-3-7. Double Frontage Lots

Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or overcome specific disadvantages of topography or orientation. The Director of Community and Economic Development may require a no-access, planting screen easement of at least 10 feet, across which there shall be no right of access, shall along the line of lots abutting such a traffic artery or other disadvantageous use.

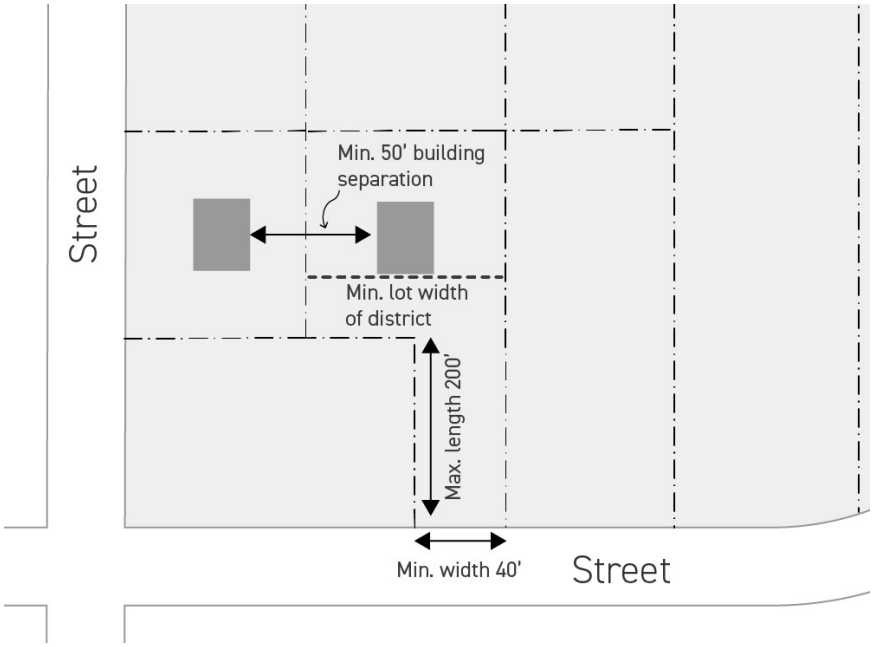
Section 11-3-8. Flag Lots

(a) Flag lots, which meet minimum lot area requirements and meet the minimum lot width at the front building setback line where the building is placed, may only be allowed in nonresidential districts.

(b) Where such lots are allowed, the street frontage of each panhandle portion of the lot shall not be less than 40 feet wide, and the panhandle portion of the lot shall be no less than 40 feet wide and not more than 200 feet long. Not more than two such panhandle access points shall abut each other. The Director of Community and Economic Development may require shared driveways for abutting flag lots.

(1) Setbacks for flag lots. See definition of "lot lines" in Chapter 9-2-2.

(2) Building separation for flag lots. No structure may be within 50 feet of another such structure on an adjacent lot.



Section 11-3-9. Remnant Lots Not Permitted

All remnants of lots below any minimum lot size which may be required, left over after subdividing a larger tract or land-locked parcel, must be added to adjacent lots, rather than allowed to remain as unusable or noncompliant parcels. The Director of Community and Economic Development may permit a remnant lot for a specific purpose such as a detention pond or other common areas, provided that access and design is appropriate and the lot is restricted to a specific nonresidential use.

Section 11-3-10. Monuments

(a) For all subdivisions, a Georgia Registered Land Surveyor shall install permanent survey monuments at all property corners, at each point at which a property line changes direction, and land lot lines, prior to final plat approval. Each monument shall be a ½ inch diameter steel rod or #4 rebar, at least 24 inches long. When rock is encountered, a hole shall be drilled 4 inches deep in the rock, into which shall be cemented a steel rod ½ inch in diameter. The top of each such monument shall be approximately level with the finished grade.

(b) Permanent survey monuments shall also be installed in accordance with the most recent edition of Section 180-7-.05 "Monument" of the Rules of State Board of Registration for Professional Engineers and Land Surveyors and the Georgia Plat Act (O.C.G.A. 15-6-67).

CHAPTER 11-4 PRELIMINARY PLATS

Section 11-4-1. Preliminary Plat Approval Required

The purpose of this chapter is to ensure compliance with the basic design concepts and improvement requirements of subdivisions through the submittal of a preliminary plat. Any subdivision involving the dedication of a public street or public land, and any subdivision involving a new private street, shall require the submission of a preliminary plat.

Section 11-4-2. Relationship of Preliminary Plat to Land Development Permit

The Director of Community and Economic Development or their designee must first approve a preliminary plat for subdivision activity prior to the issuance of a land development permit or initiation of any land disturbing or construction activities. An application for preliminary plat approval may be processed independently or in conjunction with an application for issuance of a land development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to consistency with the design requirements of this article, and therefore, proceeding simultaneously with preliminary plat and land development permit applications may result in the revision of civil engineering drawings and construction plans if the layout of the proposed subdivision must be significantly modified.

Section 11-4-3. Preliminary Plat Specifications

A preliminary plat shall be prepared by a professional engineer, a registered land surveyor, a landscape architect, a land planner, or any other person professionally familiar with land subdivision and land development activities. The preliminary plat shall meet the following specifications:

(a) Proposed name of subdivision. The proposed name of the subdivision shall not duplicate or too closely approximate, phonetically, the name of any other subdivision in the city or county. If shown to the contrary, the Community and Economic Development Department may refuse to accept such subdivision name.

(b) Plat standards. The preliminary subdivision plat shall be clearly and legibly drawn at a scale of 100 feet or less to 1 inch and meet all other document standards as provided by the Community and Economic Development Department.

(c) Owner contact information. Name, address and telephone number of the property owner.

(d) Applicant contact information. Name, mailing address, telephone and e-mail address of the applicant.

(e) Miscellaneous. Tax parcel number(s), date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(f) Use. Proposed use of the property.

(g) Location and tract boundaries. Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre), and the approximate boundaries of the tract to be subdivided or developed by bearings and distances. The preliminary plat must reference and be based on a boundary survey of the exterior boundaries of the proposed subdivision, prepared by a registered land surveyor.

(h) Location map. A location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than 1 inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide or as the required location map.

(i) Prior subdivision. Name of former approved subdivision, if any, for all of the land in the preliminary subdivision plat that has been previously subdivided, showing boundaries of same.

(j) Zoning. Zoning district designation of the subject property and all adjacent properties, and zoning district boundaries and overlay zone boundaries as appropriate.

(k) Conditions of approval. A copy of zoning, special use and variance conditions, if applicable.

(l) Natural features and flood plains. Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(m) Streets, easements, political boundaries and built features. Man-made features within and adjacent to the property, including street right-of-way and pavement widths, names of existing streets, all easements, city and county political boundary lines, and other significant information such as location and dimensions of bridges, utility lines, existing buildings to remain, and other features.

(n) Subdivision layout. The proposed subdivision layout, including lot lines and street right-of-way lines, with proposed street names or letter designations and right-of-way widths, along with the front building setback line and the approximate dimensions of the length and width of each lot.

(o) Phasing. The proposed phasing of the development, if it is proposed to be platted in phases.

(p) Water supply and sewage disposal. A statement as to the source of the domestic water supply and provisions for sanitary sewage disposal. For those properties that will not be served by a public sanitary sewerage system, but will instead install a decentralized wastewater system, location and results of percolation tests as required and approved by the Hall County Environmental Health Department.

(q) Stormwater management. The approximate location of proposed stormwater facilities shall be shown. Compliance with Chapter 11-11 is not be required at the time of preliminary plat approval but will be required for the issuance of a land development permit or grading permit.

(r) Additional information. Additional information as may be required to ensure compliance with this article and Code.

(s) Certificate of project approval. A certificate of project approval, as follows or as may be modified from time to time, shall be shown on the preliminary plat:

APPROVED FOR LAND DISTURBANCE

GAINESVILLE

Dept. of Community and Economic Development

Name_____

Date_____

Dev #_____

Section 11-4-4. Preliminary Plat Application Requirements

Applications for preliminary play approval shall include the following:

(a) Application. A properly completed application requesting review for project approval.

(b) Copies of plats. An electronic copy of the preliminary subdivision plat meeting preliminary plat specifications of this chapter and showing the entire ownership.

(c) Fees. Payment of all applicable application and review fees, as established by the governing body from time to time.

Section 11-4-5. Review and Approval Process

The Director of Community and Economic Development, or their designee is responsible for administering the review and approval process for preliminary subdivision plats, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the Director of Community and Economic Development where additional specification is required.

(a) Online submittal required. Applications and plans for preliminary plats must be submitted for review through the city's online permitting portal.

(b) Review for completeness and application acceptance. The Community and Economic Development Department shall review the application for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

(c) Distribution and agency review of preliminary plat. The Community and Economic Development Department shall route the plans to other city departments as may be appropriate, as well as any county departments such as Public Works for any development on a county road or Environmental Health if a septic system is proposed.

(d) Time period for completion of review. Within two weeks of initial distribution of plans to appropriate departments, each department shall complete their review and make any comments on the portal. Once all departments have completed their review, the applicant can upload revisions on the portal. Within one week of distribution of the revisions to the appropriate departments, each department shall complete their review and make any additional comments on the portal. This process will continue until all comments have been addressed.

(e) Variances. The Community and Economic Development Department shall not approve any preliminary plat that would result in a lot or situation that would clearly require a variance, until or unless such variance is lawfully obtained.

(f) Action. When the Community and Economic Development Department has determined that the preliminary subdivision plat complies with the requirements, purpose and intent of this article and code, it shall be approved. The preliminary plat shall be stamped electronically by the Community and Economic Development Department and will be accessible to the applicant on the portal. This action initiates the land development permit issuance. The owner shall be responsible for compliance with all codes, regulations and zoning requirements and for the satisfaction of all the noted and written comments.

(g) Posting and plans required. A placard shall be completed and must be picked up from the Community and Economic Development Department office for placement on the property. A hardcopy or accessible digital file of the approved plans must be kept on the property at all times during land disturbance activities.

(h) Duration of approval. The preliminary plat shall remain in effect for a period of one consecutive year after which time it shall become null and void and a new certificate may be required if no development activity has begun.

Section 11-4-6. Amendments to Preliminary Plat Approval

The Director of Community and Economic Development, in consultation with the Director of Public Works and/or the Director of Water Resources when engineering or water supply, sanitary sewer or stormwater systems are involved, is authorized to approve minor amendments to preliminary plats (i.e., those that do not affect the public or private street configuration or that reconfigure lots and which do not increase the number of lots), without the need to reapply for preliminary plat approval. The application requirements and procedures for amending preliminary plats, unless minor in nature, shall be the same as for preliminary plat applications.

CHAPTER 11-5 MINOR LAND DEVELOPMENT PERMITS

Section 11-5-1. Minor Land Development Permit Required

A minor land development permit may be required for small projects under 1,000 square feet of disturbed area that would otherwise not require a land development permit or preliminary plat as identified in this article, upon the discretion of the Director. For multi- family and nonresidential properties, this may include but is not limited to items such as minor tree removal, clearing and grubbing, grading, landscaping, small driveway/parking installations and small building additions located on existing impervious surface areas as determined by the Community and Economic Development Director. For single-family residential properties, this may include but is not limited to parking, patio, walkway, minor grading, minor building additions, tree removal, and retaining wall additions as determined by the Community and Economic Development Director. Regular maintenance of property including landscaping and gardening shall be exempt from these requirements. This chapter does not exempt the requirement of a separate building permit.

Section 11-5-2. General Application Requirements

Application for a minor land development permit may include the following items below as determined by the Community and Economic Development Director:

(a) Application. A properly completed application requesting review for project approval.

(b) Fees. Payment of all applicable application and review fees, as established by the governing body from time to time.

(c) Plat. A copy of the approved recorded plat of the subject property.

(d) Site plan. A site plan shall be prepared by a person familiar with land development activities. The site plan shall include at minimum the project location, total project area and all erosion and sedimentation control measures.

Section 11-5-3. Review and Approval Process

The Director of Community and Economic Development, or their designee, is responsible for administering the review and approval process for minor land disturbance permits, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the Director where additional specification is required.

(a) Online submittal required. Applications and plans for minor land disturbance must be submitted for review through the city's online permitting portal.

(b) Review for completeness. The Community and Economic Development Department shall review the application for completeness. Incomplete applications will not be processed and will be returned to the applicant.

(c) Distribution and agency review. The Community and Economic Development Department shall route the plans to other city departments as may be appropriate, as well as any county departments such as Public Works for any development on a county road or Environmental Health if a septic system is proposed.

(d) Time period for completion of review. Within two weeks following distribution of the plans, each reviewing agency shall provide comments to the applicant. Once all reviews have been completed and all comments received, revised plans can be provided by the applicant. Each reviewing agency will have one week to review and provide any additional comments on such revisions. This process will be repeated until all comments by reviewing agencies have been addressed.

(e) Variances. The Community and Economic Development Department shall not approve any minor land disturbance permit that would result in a situation that would clearly require a variance, until or unless such variance is lawfully obtained.

(f) Action. When the Community and Economic Development Department has determined that the minor land disturbance plans comply with the requirements, purpose and intent of this article and code, it shall be approved. The plans shall be stamped electronically by the Community and Economic Development Department and will be accessible to the applicant on the portal. This action initiates the land development permit issuance. The owner shall be responsible for compliance with all codes, regulations and zoning requirements and for the satisfaction of all the noted and written comments.

(g) Posting and plans required. A placard shall be completed and must be picked up from the Community and Economic Development Department office for placement on the property. A physical copy or accessible digital file of the approved plans must be kept on the property at all times during land disturbance activities.

(h) Duration of approval. The minor land development permit shall remain in effect for a period of one consecutive year after which time it shall become null and void and a new certificate may be required if no development activity has begun.

CHAPTER 11-6 LAND DEVELOPMENT PERMITS

Section 11-6-1. Land Development Permit Required

(a) A land development permit shall be required to authorize all activities associated with development activity, including, but not limited to, clearing and grubbing, grading, excavation, demolition, and the construction of such improvements as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings, signs, or other structures requiring the issuance of a building permit. Any person seeking development activity on land within the city must have authorization from the property owner and shall first submit to the Community and Economic Development Department an application for a land development permit, including all civil design and construction drawings required by this chapter.

(b) A land development permit shall not be required for detached, fee-simple single-family dwellings and two-family dwellings (duplexes). All other forms of residential development, including but not limited to detached, single-family dwellings, townhouses, and multi-family developments shall require a land development permit.

Section 11-6-2. Types of Plans Required

Anyone seeking to engage in development activity on land in the city shall not commence or proceed until civil design and construction drawings are approved and a land development permit is issued by the Community and Economic Development Department.

The civil design and construction drawings for a project shall conform in all respects with the approved preliminary plat, if applicable, and all other requirements of this chapter. Applications for approval of civil design and construction drawings shall include each of the plans described in this chapter as appropriate to the project and summarized below (which shall not be considered limiting):

(a) Erosion and sediment control plan. Plans must be prepared to meet the erosion and sedimentation control requirements using best management practices under Chapter 12-1 and as required by this chapter. Conformance with the minimum requirements may be attained using design criteria in the latest edition of the Manual for Erosion and Sediment Control in Georgia, published by the state soil and water conservation commission as a guide; or using alternate design criteria which conform to sound conservation and engineering practices. The erosion and sediment control plan shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws and permits.

(b) Tree plan. A proposal for development or improvement of any tract of land shall include a tree protection plan as required by Chapter 13-3 and this chapter. Such plan shall be submitted to the city prior to any grading, bulldozing or other removal of existing vegetation that may affect the health of existing tree coverage.

(c) Stormwater management report. The location and size of all proposed drainage improvements shall be designed in accordance with and meet all standards relating to stormwater management as specified in Chapter 11-11 and elsewhere in this code, state laws and permits.

(d) Street improvement plan. When new streets, public or private, are provided, or when an existing public or private street is modified, a street improvement plan shall be provided. Such plan must demonstrate compliance with Chapter 11-8.

(e) Structural buffer plan. When a structural buffer is required by Chapter 13-1 or provided by the applicant, a structural buffer plan shall be submitted as a part of the land development permit application. Plans shall not be required for natural buffers, but natural buffers shall be shown on the grading plan and tree plan.

(f) Stream protection buffer plan. When a stream protection buffer is required by this code, a stream protection site plan shall be submitted as a part of the land development permit application. The site plan must demonstrate compliance with Chapter 12-3 and meet all standards relating to stream and water supply protection.

(g) Flood plain permit. When a flood plain permit is required by Chapter 12-2, a flood plain permit application shall be submitted as a part of the land development permit application and as provided in this chapter.

(h) Sewage disposal plan. Sanitary sewerage plans shall include profiles of all mains and outfalls, lift station and force main details, typical manhole construction details, and other information as may be required by the Director of Department of Water Resources. For projects to be served by decentralized wastewater systems, such plans shall show the location of the system, extent of drain field and attendant structures, location and results of percolation tests, and other information shall be shown as required by the Hall County Environmental Health Department.

(i) Domestic water supply plan. The domestic water supply plan shall depict all water system improvements, water mains, fire hydrants, valves and other appurtenances, and other information as may be required by the Director of Department of Water Resources.

(j) Grading. A grading plan showing existing and proposed contours within and immediately adjacent to the proposed land development. When new streets are involved in the land development they shall comply as applicable with Section 11-8-13 of this Code.

(k) Site design review. Unless accomplished independently, the application for land development shall include information sufficient to meet the requirements for site design review and approval as specified in Article 8 of this Code.

Section 11-6-3. Preparation by Professional

All civil design and construction plans and supporting studies shall be prepared by or under the supervision of a registered professional engineer and stamped by said registered professional engineer. All other maps, drawings and supportive computations required to be submitted by this article shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying or erosion and sediment control, as applicable to the type of plan submitted.

Section 11-6-4. Separate Requirements for Phased Applications

If the tract is to be developed in phases, then a separate land development permit or grading permit, or both if applicable, shall be required for each phase. Phases shall be consistent with the limits of disturbance. A copy of the phasing plan must be provided on all preliminary and final plats and should be consistent in size and number on every permit.

Section 11-6-5. Relationship of Permit to Plat Approval

See Section 11-4-2.

Section 11-6-6. General Application Requirements for Land Development Permits

No person shall conduct any land-disturbing activity within the city without first applying for and obtaining a land development permit from the Community and Economic Development Department to perform such activity. The application for a land development permit shall be submitted electronically to the Community and Economic Development Department through the city's online permitting portal and must include the following:

(a) Application. A properly completed application requesting review for project approval.

(b) Civil design drawings and construction plans. An electronic copy of the applicable civil design and construction drawings, including the appropriate number of copies of an erosion and sediment control

plan with supporting data, as appropriate to the proposed project, and any other plans specified by this article and applicable to the proposed development. Said plans shall include, as a minimum, the data and conformance to the specifications and standards specified in this chapter.

(c) Fee. Payment of all application and review fees, as established from time to time by the governing body.

Section 11-6-7. General Specifications for Drawings and Plans

Unless otherwise specifically provided, each certified civil design plan and construction drawing required to be submitted by this chapter shall at minimum conform to the following specifications:

(a) Graphic scale and north point or arrow indicating magnetic north.

(b) Vicinity map showing location of project and existing streets.

(c) Boundary line survey.

(d) Delineation of disturbed areas within project boundary.

(e) Plans and drawings shall show existing and planned contours for the property and all land within 50 feet of the proposed project boundaries, at a map scale of 1 inch = 100 feet or larger, with contour lines drawn with an interval in accordance with the following minimum contour intervals. The procedure or method used at arriving at the contour interval shall be indicated on the plans.

Ground Slope	Contour Interval in Feet
Flat 0 - 2%	0.5 or 1
Rolling 2 - 8%	1 or 2
Steep 8% +	2, 5, or 10

(f) Adjacent areas and features such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(g) Proposed structures or additions to existing structures and paved areas.

(h) Delineate the required stream protection buffer width adjacent to state waters.

(i) Delineate the required horizontal greenway (buffer width) along designated trout streams, where applicable.

(j) A site location drawing of the proposed project indicating its location in relation to roadways, jurisdictional boundaries, overlay districts, streams and rivers, as well as the delineation of the 100-year flood plain and administrative floodplain (see Chapter 12-2), if existing, and the reference data used in making the 100-year or administrative flood plain determination.

(k) Computations, timing schedule and other supportive data required for review of the applicant's plan.

Section 11-6-8. Specifications for Erosion and Sediment Control Plans

Erosion and sediment control plans shall meet the following minimum specifications, and also as provided in Chapter 12-1.

(a) Narrative or notes, and other information. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

(b) Description of existing land use at project site and description of proposed project.

(c) Name, address, and phone number of the property owner.

(d) Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.

(e) Size of project, or phase under construction, in acres.

(f) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."

(g) Stormwater and sedimentation management systems-storage capacity, hydrologic study, calculations including off-site drainage areas and other information as may be needed to satisfy the requirements of this Article 11 and Article 12.

(h) Location of erosion and sediment control measures and practices using coding symbols from the latest version of the *Manual for Erosion and Sediment Control in Georgia, chapter 6*, and meeting the requirements of Chapter 12-1. Practices may include, but are not limited to:

(1) Construction exit.

(2) Sediment barrier.

(3) Sediment basin.

(4) Grassed waterway (open swale).

(5) Storm drain outlet protection.

(6) A plan for temporary and permanent vegetative and structural erosion and sediment control measures.

(i) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for year-round seeding.

(j) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

(k) Maintenance statement. "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."

(l) A description of the sediment control program and sediment control practices.

(m) An adequate description of general topographic and soil conditions of the tract as available from the Hall County Soil and Water Conservation District.

(n) A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.

Section 11-6-9. Specifications for Tree Plans

Tree plans shall be required, which shall show the information specified in this section (for more detailed requirements see Chapter 13-3). Tree plans involving development of 5 acres or more shall be prepared by a registered landscape architect or registered arborist.

(a) The extent of the development site.

(b) All significant trees and all other trees 6 inches DBH or larger which will remain on the development site and be protected during construction; and trees less than 6 inches DBH that are submitted for credit as

part of the required minimum tree units per acre of development site (not including land area covered by buildings).

(c) In heavily wooded areas that will not be disturbed, the plan may show only the boundaries of each stand of trees and a list of the number, size, and type (e.g., hardwood, softwood; deciduous, evergreen) of trees in each stand which are submitted for credit. An averaging method may be used for large tracts of tree save areas.

(d) Areas subject to other provisions of this Code regarding retention of undisturbed natural vegetative buffers shall also be shown.

(e) Locations of proposed and existing on-site utility lines and easements. Indicate areas where trees cannot be planted because of interference with:

(1) Existing or proposed utilities on public rights-of-way or on utility rights-of-way or easements, and

(2) Existing utilities on adjoining properties.

(f) Limits of land disturbance, clearing, grading, and trenching.

(g) Limits of tree conservation areas, showing trees to be maintained and planted, specifying type and size. Tree protective fencing shall be delineated and labeled on all sheets of plans/plats.

(h) Grade changes or other work adjacent to a significant tree or any other tree 10 inches DBH or larger which would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree.

(i) Tree protective fencing diagram or illustration.

(j) Planting schedule, if applicable.

(k) Requirements for landscaping, as specified in Chapter 13-2.

Section 11-6-10. Specifications for Stormwater Management Report and Plans

Stormwater management reports and plans shall be submitted and shall include all specifications of Chapter 11-11.

Section 11-6-11. Specifications for Street Improvement Plans

Street improvement plans shall demonstrate compliance with Chapter 11-8, and where private streets are involved, compliance with Chapter 11-9. Such plans shall include the following:

(a) Center line profiles and typical street sections at 50-foot intervals of all proposed streets. Profiles shall be drawn on standard plan and profile sheet with plan section showing street layout, pavement and right-of-way width, curvature, and required drainage facilities. Typical street sections shall be provided for street widenings.

(b) Where sanitary sewer or stormwater sewers are to be installed within a street, the grade, size, location and bedding class of pipe, and the location and invert elevation of manholes shall be indicated on the road profile.

(c) Center line profiles covering streets that are extensions of existing streets shall include elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards required by this Code for street improvements, but no less than 200 feet.

(d) All plan elevations shall be coordinated and sited into U.S. Coast and Geodetic Survey or state department of transportation benchmarks where feasible or into reference monuments established by the Federal Emergency Management Agency.

(e) A street striping and signage plan, showing improvements in accordance with the Manual on Uniform Traffic Control Devices, latest edition as published by the Federal Highway Administration, shall be prepared for any new street or street widened to four or more lanes.

Section 11-6-12. Specifications for Structural Buffer Plans

When required to be submitted by Chapter 13-1, structural buffer plans shall provide the following:

(a) All grading and construction details for earthen berms, walls and fences that are proposed as part of the visual screen.

(b) A planting plan showing the location and type of proposed plant materials.

(c) Typical cross-sections of the buffer illustrating the improvements proposed and typical location of vegetation. At least one cross-section shall be provided for each structural buffer.

Section 11-6-13. Stream Protection Buffer Plans

A stream protection buffer plan shall be submitted and shall include all specifications required by Chapter 12-3.

Section 11-6-14. Flood Plain Permit

If development or construction is proposed within or affecting an area of special flood hazard by Chapter 12-2, a flood area permit application shall be included with and reviewed along with a land development permit application. If a flood plain permit is required, the application shall also include the following:

(a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings;

(b) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed;

(c) Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the floodproofing criteria in Chapter 12-2; and

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 11-6-15. Administration

The Community and Economic Development Department is responsible for administering the review and approval process for issuance of land development permits.

Section 11-6-16. Review and Approval Process

The Director of Community and Economic Development, or their designee, is responsible for administering the review and approval process for land disturbance permits, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the Director where additional specification is required.

(a) Online submittal required. Application and plans for land disturbance activity must be submitted for review through the city's online permitting portal.

(b) Review for completeness. The Community and Economic Development Department shall review the application for completeness. Incomplete applications will not be processed and will be returned to the applicant.

(c) Distribution and agency review. The Community and Economic Development Department shall route the plans to other city departments as may be appropriate, as well as any county departments such as Public Works for any development on a county road or Environmental Health if a septic system is proposed.

(d) Time period for completion of review. Within two weeks following distribution of the plans, each reviewing agency shall provide comments to the applicant. Once all reviews have been completed and all comments received, revised plans can be provided by the applicant. Each reviewing agency will have one week to review and provide any additional comments on such revisions. This process will be repeated until all comments by reviewing agencies have been addressed.

(e) Variances. The Community and Economic Development Department shall not approve any land disturbance permit that would result in a situation that would clearly require a variance, until or unless such variance is lawfully obtained.

(f) Action. When the Community and Economic Development Department has determined that the land disturbance plans comply with the requirements, purpose and intent of this article and code, it shall be approved. The plans shall be stamped electronically by the Community and Economic Development Department and will be accessible to the applicant on the portal. This action initiates the land development permit issuance. The owner shall be responsible for compliance with all codes, regulations and zoning requirements and for the satisfaction of all the noted and written comments.

(g) Posting and plans required. A placard shall be completed and must be picked up from the Community and Economic Development Department office for placement on the property. A physical copy or accessible digital file of the approved plans must be kept on the property at all times during land disturbance activities.

(h) Duration of approval. The land development permit shall remain in effect for a period of one consecutive year after which time it shall become null and void and a new certificate may be required if no development activity has begun.

Section 11-6-17. Review of Soil Erosion Plans

Upon receipt of a land development permit application, the Community and Economic Development Department shall refer the soil erosion and sediment control plan to the Hall County Soil and Water Conservation District and city Department of Water Resources for review and approval or disapproval concerning the adequacy of the erosion and sediment control plan. The results of the soil and water conservation district and Department of Water Resources reviews shall be forwarded to the Community and Economic Development Department. No land development permit shall be issued unless the plan has been approved by the soil and water conservation district and the Department of Water Resources, and any variances and bonding, if required, have been obtained.

Section 11-6-18. Action on Permit Applications

(a) The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the comments of reviewing city departments, external agencies, and the Community and Economic Development Department. Although review may have been achieved, if another city department or external agency requires approval or permit, the owner shall also be responsible for obtaining approval from all other agencies affected by the project prior to issuance of the land development permit by the Community and Economic Development Department.

(b) No land development permit shall be issued unless the erosion and sediment control plan has been approved by the soil and water conservation district and the Department of Water Resources, and that the Community and Economic Development Department has affirmatively determined that the plans required comply with all requirements of this article and Code.

(c) If the land development permit is denied, the reason for denial shall be furnished to the applicant. Following satisfaction of all comments from the city and external agencies and receipt of approvals from all affected agencies, the Community and Economic Development Department shall issue a land development permit when all requirements of this chapter and Code are met. Such approval authorizes land-disturbing activities to begin based on the approved civil design and construction drawings.

Section 11-6-19. Permits for Annexed Lands

If the tract for which a land development permit is sought is being annexed into the city, then a land development permit may not be issued until the date the annexation becomes effective pursuant to state law under O.C.G.A. 36-36-2. No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the annexation approval date.

Section 11-6-20. Responsibilities Limited

(a) Approval of plans by the Community and Economic Development Department shall not imply or transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

(b) The completion of inspections by the city and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

(c) The approval of an erosion and sediment control plan or other plans under the provisions of this article and Code, the issuance of a land development permit, or the compliance with the provisions of this article and Code shall not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the city or the soil and water conservation commission district for damage to any person or property.

(d) The fact that any activity for which a land development permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article and Code or the terms of the permit.

Section 11-6-21. Bond Requirements for Violators of Soil Erosion and Sedimentation Regulations

If the applicant has had two or more violations in the city of previous land development, this article, Chapter 12-1, and the Code as it pertains to soil erosion and sediment control, or the Georgia Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Director of Community and Economic Development may deny the land development permit application, or may require the applicant to post a performance bond prior to issuing the land development permit. If the applicant does not comply with this article and Code, or with the conditions of the permit after issuance, the Community and Economic Development Department may call the performance bond or cause any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

Section 11-6-22. Suspension, Revocation, or Modification

The land development permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion and sediment control plan or that the holder or his successor in title is in violation of this Code. A holder of a land development permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the land development permit.

Section 11-6-23. Expiration of Permit Approval

A land development permit shall expire one year from the date of issuance. The applicant may request a permit extension if no changes are made to the original permitted plan.

Section 11-6-24. Falsifying Information

Any person who knowingly makes any false statements, representations or certifications in any application, permit, record, report, plan, drawing, plat, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or inspection method required under this chapter shall be in violation of this code and subject to the fines, penalties and punishment provided for in Section 1-1-8 of the Code of the City of Gainesville and other penalties as provided for in this chapter.

CHAPTER 11-7 IMPROVEMENT REQUIREMENTS GENERALLY

Section 11-7-1. Applicability

The improvements specified in this chapter shall be provided by the subdivider or developer or at the subdivider's or developer's expense in every subdivision or land development in accordance with the standards contained in this article and Code.

Section 11-7-2. Survey Monumentation

Survey monumentation of the public streets and lot lines in a subdivision shall be provided, where applicable. See also Section 11-3-10 of this Code.

Section 11-7-3. Streets

Streets, whether public or private, shall provide access to a development and to all lots in a subdivision, including the extension of streets required to provide access to adjoining properties.

(a) Streets contained wholly within a subdivision shall be improved to the full standards contained in Chapter 11-8. Streets that adjoin a development shall be improved to the minimum standards of a local street from the center line of the street along the development's frontage.

(b) Streets in nonresidential areas or serving a multi-family development shall be improved to "collector" street standards. In residential subdivisions, streets that serve 100 dwelling units or more shall be improved to "collector" street standards, while those serving fewer than 100 dwelling units shall be improved to "local" street standards.

(c) The city may participate in sharing the costs of construction and installation to the extent that improvements are needed to bring an existing public street to a higher level of classification than required to exclusively serve the subdivision or development.

(d) Curb and gutter shall be required along all streets and internal roadways, unless stormwater is directed to a stormwater best management practice via a curb cut or other means, and approval has been given by the Department of Water Resources. See also Section 11-8-23.

Section 11-7-4. Stormwater Facilities

Stormwater drainage and detention facilities shall be provided as required by the Public Works Director and in accordance with Chapter 11-11 and other provisions contained in this code.

Section 11-7-5. Sidewalks

Minimum five-foot wide sidewalks shall be provided along each side of any street within or adjacent to the development, in accordance with Section 11-8-26.

Section 11-7-6. Traffic Control Devices

Street name signs, traffic control signs, and all pavement markings shall be installed by the developer at the developer’s expense. See also Section 11-8-25.

Section 11-7-7. Water Service

(a) Water service shall be provided to every lot in a subdivision and to every development for both domestic use and fire protection, as more specifically provided in Chapter 11-10.

(b) Water mains shall be connected to the existing city water system and extended past each lot. A contractor approved by the city shall install all elements of the water system, including mains, valves and hydrants at the developer's expense. The governing body may elect to participate in sharing the costs of construction and installation to the extent that pipe sizes are needed in excess of that size required to exclusively serve the subdivision or development.

Section 11-7-8. Fire Hydrants

Fire hydrants shall be located along the streets in every subdivision and within every development project, as approved by the city fire department and the Department of Water Resources.

Section 11-7-9. Sanitary Sewerage

(a) Every lot in a subdivision and every development shall be connected to the city's public sanitary sewerage system unless on-site disposal is approved by the Department of Water Resources and the Hall County Environmental Health Department. Sewer lines shall be connected to the existing sanitary sewerage system and extended past each lot, as more specifically provided in Chapter 11-10.

(b) Every element of the sanitary sewer system, including mains, lift stations, outfalls, and laterals, shall be installed at the developer's expense by a contractor approved by the city. The governing body may elect to participate in sharing the costs of construction and installation to the extent that sewer mains or related improvements are needed in excess of the facilities required to exclusively serve the subdivision or development.

Section 11-7-10. Design Variance

The Director of Community and Economic Development, Director of Public Works, Director of Water Resources and other department Directors as appropriate are authorized to, upon application, approve variances to the design requirements of this article, for design elements under each department’s purview, and for good cause shown. Such application for variance shall be processed in conjunction with a preliminary plat application or land development permit application as appropriate. The applicant may be required to secure approval of variance from other agencies if they are affected by (or have jurisdiction over) the improvements. Possible agencies are listed in Section 11-6-16.

CHAPTER 11-8 DESIGN REQUIREMENTS FOR STREETS

Section 11-8-1. Access

(a) Every development and every lot within a subdivision shall be served by a public street meeting the requirements of this chapter or an approved private street meeting the requirements of this chapter and Chapter 11-9.

(b) Every development and every subdivision shall have access to the public street system via a paved roadway.

(c) When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed to allow for the opening of future streets and to provide access to those areas not presently served by streets.

(d) No subdivision or development shall be designed in a way that would completely eliminate street access to adjoining parcels of land.

(e) Reserve strips, as defined in Chapter 11-2, shall be prohibited.

Section 11-8-2. Conformance to Adopted Major Thoroughfare and Other Plans

All streets and other features of the adopted comprehensive plan shall be platted by the subdivider or installed by the land developer in the location and if any, to the dimensions indicated on the major thoroughfare plan or transportation element of the comprehensive plan adopted by the governing body, as well as the transportation plan of the metropolitan planning organization (MPO).

Section 11-8-3. Continuation of Existing Streets

(a) Streets existing at the property line of a subdivision or land development, or which terminate within the boundaries of a subdivision or land development, shall be continued at the same or greater width, but in no case less than the required width. The Director of Community and Economic Development may waive this requirement in instances where in his or her opinion such continuation or extension would be undesirable or incompatible with surroundings.

(b) Where, in the opinion of the Director of Community and Economic Development, it is necessary to provide for street access to adjoining property, proposed streets shall be extended by dedication of right-of-way to the boundary of such property through the subdivision or land development.

Section 11-8-4. Street Plans for Future Phases of the Tract

Where land proposed to be subdivided or developed includes only part of the tract owned by the subdivider or land developer, a tentative plan of a future street system for the portion not slated for immediate subdivision or land development consideration shall be required by the Director of Community and Economic Development. When such tentative plan is required, it shall be prepared and submitted by the subdivider or land developer at the time of submission of an application for preliminary plat, if required, or land development plan permit.

Section 11-8-5. Development Along Arterial Street or Limited Access Highway

Where a subdivision or land development abuts or contains an arterial street or a limited access highway, the Director of Community and Economic Development may require a street to be constructed approximately parallel to and on each side of such right-of-way, from which the lots or land development shall be accessed instead of the arterial street or limited access highway. In such cases, the Director of Community and Economic Development shall require a no-access easement at least 10 feet in width and planted with landscaping to prohibit travel across it.

Section 11-8-6. Separation of New Streets along Arterial Street

Subdivision streets that intersect an arterial street shall do so at intervals of not less than 800 feet, or as required by the state department of transportation, whichever is greater.

Section 11-8-7. Street Names

Street names shall be reviewed for correct usage and reasonable meanings consistent with the language used and are subject to the approval of the Director of Community and Economic Development or designee. For instance, the term "parkway" shall not be appropriate for an undivided, two-lane road. Streets that are a continuation of or in alignment with existing named streets shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets in the city or county, regardless of the use of any suffix such as "street," "avenue," "boulevard," "drive," "place," "way," "court," or other designation.

Section 11-8-8. Street Alignment, Intersections, and Jogs

Streets shall be aligned to join with planned or existing streets. Streets shall be laid out so as to intersect as nearly as possible at right angles (90 degrees), but in no case shall such a street intersection be less than 80 degrees. Where street offsets or jogs cannot be avoided, offset "T" intersections shall be separated by a minimum centerline offset of 200 feet.

Section 11-8-9. Right-of-Way Widths

All state or U.S. numbered highways shall meet all design requirements of and be approved by the state department of transportation. The right-of-way width shall be the distance across a street from lot line to lot line. Minimum right-of-way widths shall be as required in Table 11-1: Street Improvement Requirements.

Figure 11-1: Typical Street Section A

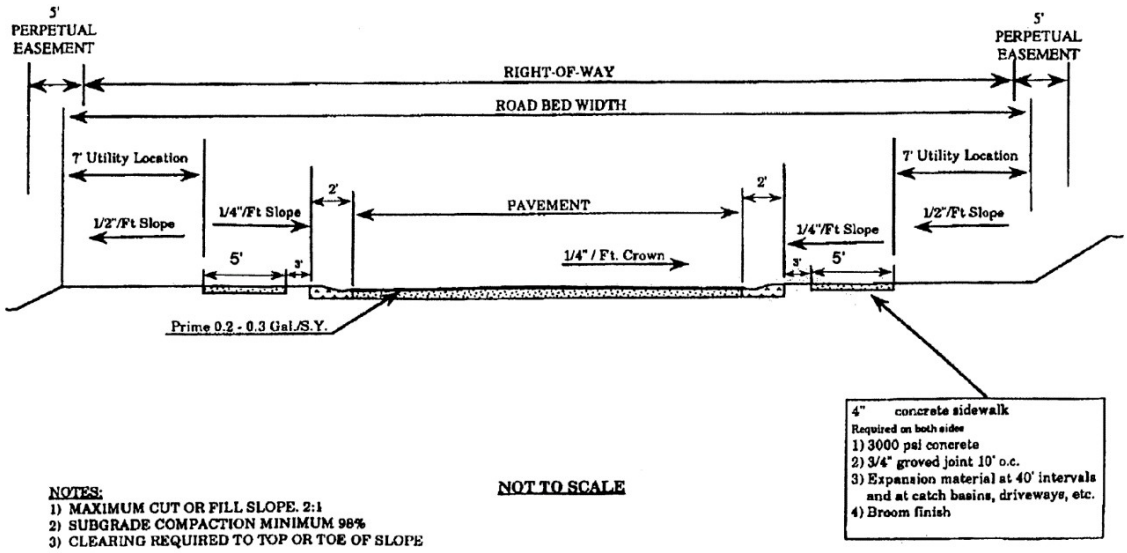


Table 11-1: Street Improvement Requirements

Requirement	Arterial Street	Collector Street	Local Street	Alley
Right-of-way, minimum (feet)	Per Georgia DOT	60’	50’	30’
Roadway width (feet)	Per Georgia DOT	32’	28’	20’
Pavement width, minimum (feet)	Per Georgia DOT	28’	24’	16’ plus curbs if required or provided
Grade, maximum (percent)	6%	10%	12%	12%
Grade, minimum (percent)	1%	1%	1%	1%
Site distance, minimum (feet)	Per Georgia DOT	250’	200’	150’
Radius of curvature of the center line, minimum (feet)	Per Georgia DOT	500’	275’	200’
Tangent, minimum (feet)	Per Georgia DOT	200’	100’	100’
Design speed (miles per hour)	Per Georgia DOT	35 miles per hour	30 miles per hour	20 miles per hour
Cul-de-sac turnaround radius, back of curb (feet)	N/A	N/A	42’	40’
Street base, graded aggregate base, (GDOT Sec. 310) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Street base, soil cement Base “B” (GDOT Sec. 301) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Pavement topping, primer (gallons per square yard)	Per Georgia DOT	0.25 gallons per square yard	0.25 gallons per square yard	Per Director of Public Works
Pavement, binder (inches)	Per Georgia DOT	2½ inches B	2½ inches B	Per Director of Public Works
Pavement topping (inches)	Per Georgia DOT	1½ inches E or F	1½ inches E or F	Per Director of Public Works
Pavement, total (inches)	Per Georgia DOT	4 inches	4 inches	Per Director of Public Works
Curb and gutter (dimensions in inches)	Per Georgia DOT	6” x 24” combination	6” x 24” combination	Per Director of Public Works

Section 11-8-10. Perpetual Easement

A five-foot wide perpetual easement shall be provided outside of the right-of-way line along both sides of all collector and local streets. See Figure 11-1: Typical Street Section A.

Section 11-8-11. Pavement Widths

Street pavement widths, as measured from back-of-curb to back-of-curb, shall be provided as required in Table 11-1: Street Improvement Requirements. All roadways shall be constructed according to methods as contained in the

most recent version of the state department of transportation Standard Specifications for Roadway Construction, unless otherwise approved by the Director of Public Works.

Section 11-8-12. Street Grades

Maximum and minimum street grades shall be as specified in Table 11-1: Street Improvement Requirements. In addition, the grade across a cul-de-sac in all directions may not exceed 5%. All changes in grade shall be connected by a vertical curve so constructed as to afford a minimum sight distance, said sight distance being measured from the driver's eyes, which are assumed to be 45 inches above the pavement surface, to an object 6 inches high on the pavement.

Section 11-8-13. Grading

(a) Grading of full width. All streets, roads and alleys shall be graded to their full width by the developer so that pavement extensions or sidewalks, where required or if installed in the future, can be constructed on the same level plane.

(b) Clearing. Before grading is started the entire area to be paved shall be first cleared of all stumps, roots, brush and other objectionable materials. In all areas to be graded or filled, the developer shall stockpile the topsoil later to be spread in all disturbed areas not paved.

(c) Slopes and shoulder improvements. The maximum slope for all fill or cut slopes shall be 2 feet of run for each 1 foot of rise or fall. The minimum width for all shoulders on local or collector streets from back edge of the curb shall be 11 feet. All shoulders shall slope one-fourth (¼) inch to the foot toward the roadway. When all construction is completed, all slopes and shoulders shall be cleared of all rubbish and shall have a stand of grass to prevent undue erosion, either by sprigging or seeding. Abutting property shall be suitably sloped to the right-of-way line.

(d) Protection of graded areas. Immediately after grading and filling and re-spreading of topsoil, all areas of disturbed soil shall be fertilized and seeded (or in steep areas sodded or otherwise appropriately treated) with suitable vegetative cover to prevent erosion.

(e) Installation of utilities. After grading is completed and approved, the curb lines shall be staked by the developer's registered land surveyor. Before any base is applied, all the underground utilities that are to be located under the roadway are to be installed completely or otherwise provided in accordance with Public Works requirements. For proper location of utilities, see Section 11-8-27.

(f) Authorization. No private improvements, such as private lawn sprinkler systems, yard lighting, and the like, shall be installed within a public right-of-way except by authorization of the Director of Public Works. Such authorization, if issued, shall require the owner to assume all repair costs of the owner's and the city's facilities should they become damaged.

(g) Preparation of subgrade. Prior to placement of the street base, the subgrade shall be compacted to 95% density.

(h) Street base, curbing and paving. Street base, curbing and paving shall be installed by the developer in accordance with the requirements and standards of this article.

Section 11-8-14. Sight Distance

The minimum sight distance shall be as specified in Table 11-1: Street Improvement Requirements.

Section 11-8-15. Horizontal Alignment

Where a deflection angle of more than 10 degrees in the alignment of a street occurs, the radius of curvature of the center line of said street shall be not less than specified in Table 11-1: Street Improvement Requirements. Tangents shall be as specified in Table 11-1: Street Improvement Requirements.

Section 11-8-16. Curb Line Radii

Curb lines at street intersections shall have a radius of curvature of not less 25 feet. Intersecting street right-of-way lines shall be rounded with a radius of no less than 25 feet.

Section 11-8-17. Design Speed

Horizontal curves and superelevation shall be designed in accordance with the requirements specified in Table 11-1: Street Improvement Requirements.

Section 11-8-18. Alleys

Where an alley has been specifically authorized by the Director of Public Works, it shall comply with the standards specified in Table 11-1: Street Improvement Requirements. In addition, dead-end alleys shall be provided with a turn-around having a radius of at least 40 feet.

Section 11-8-19. Dead End Streets

(a) Only local streets and alleys may be dead-end streets.

(b) A cul-de-sac shall be no more than 600 feet long unless necessitated by topographic or other conditions and approved by the Director of Community and Economic Development. Such a street shall be provided at the closed end with a turnaround having a right-of-way radius of 53 feet and pavement radius of 40 feet (42 feet radius to back of curb).

(c) A reverse curve joining a cul-de-sac turn-around to a street section shall have a right-of- way radius of 29 feet and a radius to the back of curb of 40 feet (42 feet to edge of pavement).

(d) A permanent dead-end street other than a cul-de-sac shall not be allowed, except as a temporary stage of construction of a street that is intended to be extended in a later stage of construction. Such a temporary dead-end street shall be provided with a temporary turn-around within the right-of-way if one or more lots front exclusively on the street; and extension of the street is not under construction when the final plat is submitted for recording.

(e) Temporary turnarounds shall consist of a tack coat and one inch of asphalt and have a radius of at least 40 feet.

Section 11-8-20. Street Base

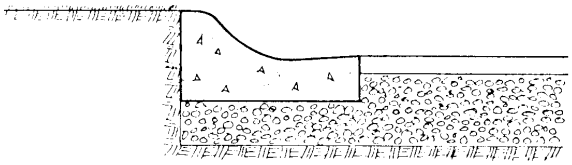
Street base material shall conform to the requirements of Table 11-1: Street Improvement Requirements.

Soil cement base shall contain a minimum 10% Portland cement by volume. All soil cement mix design must be reviewed and approved by the Department of Public Works. Soil cement base may be allowed only under the following conditions:

(a) None of the streets exceed 8% grade.

(b) Tests taken 1,000 feet of roadway shall show that the soil meets class “B” standards of the state department of transportation. The tests shall be conducted by a qualified geotechnical laboratory and the results filed with the city in order to obtain authorization to proceed.

(c) The street base shall extend fully under combination curb and gutter (as illustrated below).



Section 11-8-21. Pavement Binder and Topping

(a) Streets shall be paved with a top course meeting the standards specified in Table 11-1: Street Improvement Requirements. If two-stage paving is approved by the Director of Public Works, the developer shall place a binder course on the street and delay final paving until the end of the one-year maintenance period.

(b) All pavement sections shall be designed by a qualified professional engineer with registration in the state based on 20-year projected traffic loads for that section and the existing subgrade conditions. The minimum acceptable pavement sections shall meet the specification contained within this chapter.

Section 11-8-22. Testing Requirements

It is the responsibility of the developer to ensure that all required tests are made and reported to the Public Works Department. The cost of all testing and quality control shall be performed at the expense of the developer by qualified testing laboratories.

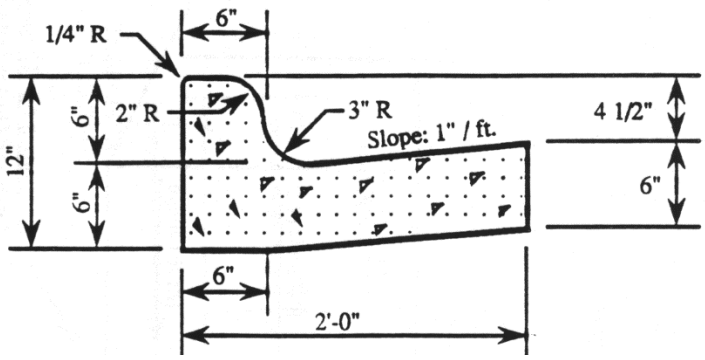
Table 11-2: Pavement Testing Requirements

Type of Test to be Performed	Minimum Number of Tests	Testing Standards
Sub-grade Compaction	Each 500 linear feet of roadway	95% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167
Base Compaction	Each 500 linear feet of roadway	100% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167
Asphalt Density	Each 1,000 linear feet of roadway	92% Laboratory Density
Asphalt Thickness	Each 500 linear feet of roadway	Deficient in thickness not more than ¼”

Section 11-8-23. Curb and Gutter

All streets shall be provided with a combination curb and gutter, unless stormwater is directed to a stormwater best management practice via a curb cut or other means, and approval has been given by the Department of Water Resources. Curb and gutter shall be constructed of 3,000 psi Portland cement concrete, or with a header curb of the

same material at median or cul-de-sac islands. Curbing along streets shall meet one of the following standards: Along the outer edge of all roadways, 6 by 24-inch combination (full face) curb:



For use along medians only, six-inch header curb.

(a) Adequate storm drainage structures shall be provided. The combination curb and gutter or header curb shall be constructed so as to present a smooth, even line both horizontally and vertically. Preshaped joints shall be placed every 50 feet along the curb line.

(b) Valley gutters shall not be allowed across local streets at street intersections.

(c) If a development is proposed on a parcel where multiple driveways exist, the owner/developer shall be responsible for removing all existing driveway curb cuts and aprons and replacing them with standard curb and gutter. Only new driveways constructed to current standards shall be allowed.

Section 11-8-24. Turning Lanes

Turning lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets. Turning lanes shall be 12 feet in width plus curb and gutter for a minimum distance of 200 feet measured from the intersection of the right-of-way lines.

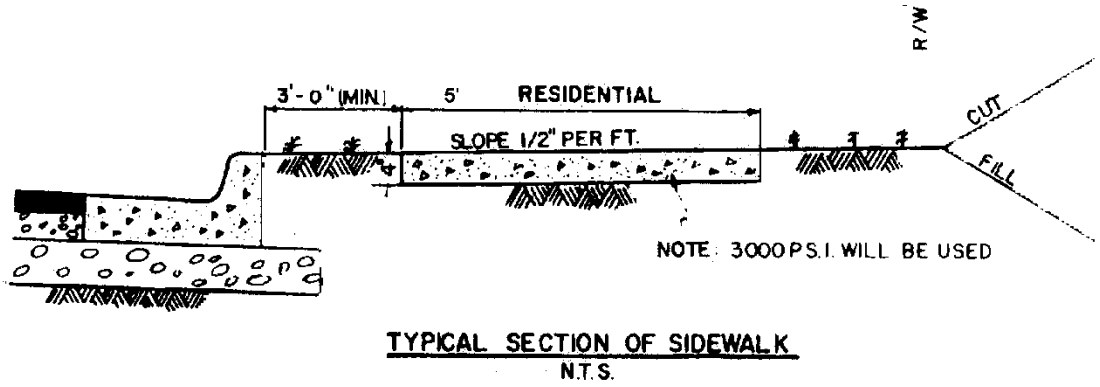
Section 11-8-25. Street Name Signs and Traffic Control Signs

Street name signs of a type approved by the city shall appear at all intersections. Traffic control signs shall be placed by the city and conform to the U.S. Manual on Uniform Traffic Control Devices, latest edition.

Section 11-8-26. Sidewalks

(a) Minimum 5-foot-wide sidewalks shall be installed along all new streets. In addition, the Director of Public Works shall require the subdivider or land developer to install, along the entire property frontage, minimum 5-foot-wide sidewalks on streets leading to or going through commercial areas, school sites, places of public assembly, and other congested areas, and along existing streets abutting the subdivision or land development, or as may be otherwise specified in the city's comprehensive plan.

(b) Where required or provided, sidewalks shall be located not less than 1 foot from the property line to prevent interference or encroachment by fencing, walls, hedges or other plantings or structures placed on the property. Sidewalks shall be constructed of concrete no less than 4 inches in depth and located no less than 3 feet from the back of the curb. Sidewalks must have half inch (1/2 inch) expansions joints placed at intervals of no greater than 60 feet, and where sidewalks tie into a structure or terminate at curbs, ramps or driveways. All sidewalks shall be constructed to conform to requirements of the Americans with Disabilities Act. The Director of Public Works, in accordance with Section 11-7-5, may administratively vary the width and location of the sidewalk based on existing and surrounding site conditions.



TYPICAL SECTION OF SIDEWALK
N.T.S.

Section 11-8-27. Location of Utilities in Streets

(a) Above-ground utilities. Telephone poles, street light poles, telephone junction boxes and other public or private utility structures placed above ground within a street right-of-way must be at least 8 feet back from the back of the street curb and 1 foot back from the edge of the sidewalk, whichever is farthest from the roadway.

(b) Underground utilities. Utilities placed underground shall be placed within the right-of-way as follows (see typical street section B).

(c) Sanitary sewer. Sanitary sewer when placed within a street right-of-way, shall have a minimum of 4 feet of cover and provide a minimum slope of laterals to abutting properties of 1%.

(d) Stormwater. Stormwater conveyance pipes, when placed within a street right-of-way, shall have a minimum of 18 inches of cover and shall have a minimum slope of at least 1%.

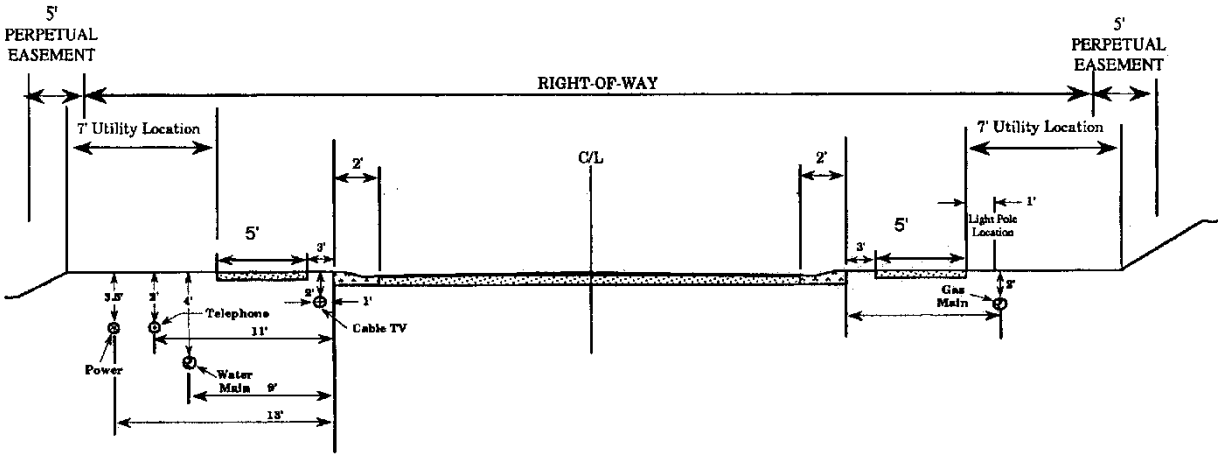
(e) Location of utilities. Other utilities, when placed underground along the roadway, shall be located in the shoulder of the road and shall be placed at the following distances measured from the back of curb or edge of pavement, and placed at or below the depths indicated as follows:

Table 11-3: Location of Utilities

Type of Utility by Side of Street	Back from Curb or Pavement	Minimum Depth
TV Cable	1.0 feet	2.0 feet
Gas Main	9.0 feet	2.0 feet
Water Main	9.0 feet	4.0 feet
Telephone Cable	11.0 feet	2.0 feet
Power	13.0 feet	3.5 feet

Water and gas mains must be placed on opposite sides of the street. All utilities that will cross under pavement shall be installed completely throughout the subdivision prior to any roadway base being applied. Installation of approved utility sleeves shall be considered as an alternate.

Figure 11-2: Typical Street Section B, Location of Utilities



NOTES:
1) Standard detail for utility location within right-of-way of residential subdivisions.
2) Before any utility is installed, the entire width of the R/W shall be final graded, and all concrete curbing set at final grades.
3) In general, the deepest utilities should be installed first to minimize any possible interference with laterals or service lines.

NOT TO SCALE

Section 11-8-28. Pavement Cuts

Pavement cuts across local streets shall conform to the following:

(a) Pavement cuts for the installation of utilities shall be avoided whenever possible. Utility crossings shall be bored across any arterial, subject to the approval of the state DOT, and across any collector unless a pavement cut is approved by the Director of Public Works.

(b) Pavement cuts across local streets shall be permitted, provided the road is repaired with at least 6 inches of 3,000 psi Portland cement and topped with at least 2½ inches of E or F hot plant mix asphaltic cement. The top of the concrete pad shall not exceed the elevation of the aggregate base course of the original road construction.

Section 11-8-29. Street Lighting

(a) Roadway illumination standards. In order to ensure adequate illumination of public rights-of-way and promote safety and security, the "American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society" as approved by the American National Standards Institute (1993), as amended, is hereby adopted as the standard for the installation and operation of lighting in the City with the following exception:

(1) 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 foot- candle illumination level by roadway classification shall be as provided in the table below.

Table 11-4: Street Light Illumination Standards

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	1.2	0.9	0.6
Collector	0.8	0.6	0.4
Local or Residential	0.6	0.5	0.3

(2) The uniformity of illumination shall be such that the point of lowest illumination shall have at least 1/3 of the average horizontal foot-candle required illumination level, except that on local or residential streets it may not be less than 1/6 of this average. Unless extenuating circumstances exist, fixtures for residential street lighting shall not be required to be closer than 200 feet, nor fixtures for all other roadways be closer than 100-foot spacing. If pole top fixtures are used, spacing should range between 125 feet to 150 feet.

(b) Plans, approval, and appeal. Any party requesting permission to install or operate lighting fixtures within public and private rights-of-way shall furnish plans and specifications to the Director of Public Works for approval showing how the proposed lighting meets the standards of this section. No lighting shall be installed or operated without the approval of the Director of Public Works. Should the Director of Public Works disapprove a request to install lighting fixtures within any public right-of-way, he shall communicate disapproval in writing to the party requesting approval. The written communication shall include specific reasons for disapproval. Any disapproval of a light or lighting system may be appealed to the Planning and Appeals Board. If any party desires to appeal an adverse decision by the city engineer within 10 days from the date following the written notice of disapproval, it shall be the responsibility of the Director of Public Works to transmit forthwith to the Planning and Appeals Board all papers and allied documents constituting the record upon which the action appealed was taken, and to ensure that the appeals promptly placed upon the agenda of the planning and appeals board for its determination. The Planning and Appeals Board may reserve or affirm, wholly or partly, or may modify, the order, requirement, and decision of determination appealed.

(c) Security and other lights. Roadway or street lighting luminaries or fixtures installed within the public or private 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 insure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the Director of Public Works shall be obtained prior to installation of such lights. Other lighting fixtures to be installed within or outside of public or private rights-of- way for whatever purpose shall be installed and operated in such a manner so as to prevent glare from being a hazard to or interfering with the normal use of the public or private rights-of-way.

(d) Procedures for approval in subdivisions. Street lights shall be required to be provided by the developers of all new subdivisions involving new streets, unless waived by the governing body on recommendation from the planning and appeals board. Unless so waived, the developer, at the time of submission of the preliminary plat of the subdivision shall present a street light layout approved by the utility company which will provide the street light service in the subdivisions. At the time of and as a requirement of the submission of a final plat, unless waived by the governing body on recommendation of the planning and appeals board as herein provided, the developer shall:

(1) Submit a final street light layout approved by the utility company which will provide the lighting service showing exact location of street lights within the subdivision. This drawing (lighting layout) must be approved by the Director of Public Works prior to obtaining any building permit within that subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company which will be responsible for the maintenance of the facilities in the city. The fixtures shall be mounted a minimum of 13 to 16 feet above the ground, and shall have appropriate design to place

the majority of the light output over the street. One light shall be located in each cul-de-sac within the subdivision, as well as at each intersection.

(2) Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation thereof.

(3) Submit proof of payment for complete installation to the Director of Public Works.

(e) The above requirements must be met prior to obtaining any building permits for that subdivision and must be shown as a general note on the final plans.

Section 11-8-30. Street Trees

(a) Optional. Street tree planting may be permitted within the rights-of-ways of new public streets and private streets within commercial, industrial, or residential subdivisions, subject to the approval of the Director of Public Works. See Chapter 7-3 for street tree planting requirements in the Midland Overlay.

(b) Plan submittal and approval. When street trees are to be provided, the subdivider, owner of land to be dedicated as a public street, or the developer of a private street shall at the time of preliminary plat approval submit a plan for the provision of street trees along all said roads which shall be subject to the approval of the Director of Public Works.

(c) Installation. It is the intent of this section that where street trees are provided the subdivider or developer should carefully position street trees on the plan while taking into account sidewalk locations, utility locations, and, if not constructed simultaneously with the construction of the public or private street, future driveways. When street trees are provided, the subdivider or developer shall install said street trees, according to a plan approved by the Director of Public Works as a part of preliminary plat approval or land development permit approval, and prior to dedication or opening of said street. The Director of Public Works may accept an agreement by the subdivider where the responsibility for street tree planting is shifted to the owners or individual builders of the lots to be subdivided, upon their development. Any such responsibility shall be legally transferred in a form acceptable to the city attorney.

(d) Location. Street trees must be planted within the public or private right-of-way or, if right-of-way width is insufficient to accommodate said street trees, then on private property within a street tree easement dedicated to the city.

(e) Guidelines. The guidelines below are intended to avoid conflicts with improvements; they are recommendations only and are subject to the approval of the Director of Community and Economic Development.

Table 11-5: Street Tree Placement

Mature Size	Minimum Width of Tree Lawn	Spacing Between Trees	Overhead Utilities (If Permitted)	Distance from Signs, Utility Poles, Driveways, Fire Hydrants	Distance from Inter-Section	Distance from Under-Ground Utilities
Large 50-70 Feet	10 Feet	60 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet
Medium 30-40 Feet	7.5 Feet	40 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet

Small 15-20 Feet	5 Feet	20 Feet	Allowed with Planning Approval*	10 Feet	30 Feet	5 Feet
Evergreen 40-50 Feet	Yards Only	30 Feet	Do Not Plant	30 Feet	30 Feet	5 Feet
*Refer to Table 13-8						

CHAPTER 11-9 PRIVATE STREETS

Section 11-9-1. Private Streets Permitted

Private streets may, upon application, be permitted by the Director of Community and Economic Development, subject to the requirements of this Article. The Director of Community and Economic Development may impose conditions on the approval of private streets to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this Article.

Section 11-9-2. Engineering Plans Required

It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the same to be done without first obtaining approval of civil design drawings and construction plans and securing a land development permit from the Director of Community and Economic Development in accordance with the requirements of this Article, the same as for a public street.

Section 11-9-3. Standards for Private Streets

All private streets shall be constructed to all standards for public streets as specified in Chapter 11-8 of this Article, unless otherwise specifically approved as part of a Planned Unit Development by the Governing Body.

Section 11-9-4. Street Names and Signs

Private streets shall be named, subject to the approval of the Director of Community and Economic Development. The subdivider or developer of land involving a private street shall install street signs with content containing the street name and the designation “private,” or as approved by the Director of Public Works. Alternatively, the Director of Public Works may require the subdivider or developer to pay for such signs to be installed by or under the direction of the City. Signs signifying private streets may be required by the Director of Public Works to be a different color than that of street signs provided for public streets, in order to distinguish maintenance responsibilities in the field.

Section 11-9-5. Easements

Easements for private streets shall be designated on final plats as general purpose public access and utility easements, along with the name of said private street which shall require approval by the Director of Community and Economic Development. Said easement shall at minimum be of the same width as that required for the right-of-way of a public street for the type of public street (local, collector, etc.) most closely resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density maximums established by zoning regulations of this Unified Land Development Code. In the cases of private streets, the general purpose public access and utility easement shall be shown in a manner on the final plat such that the private street right-of-way is drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot) or other approved entity.

Section 11-9-6. Maintenance

The City shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets. A private maintenance covenant recorded with the Hall County Clerk of the Superior Court shall be required for any private street and other improvements within general purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The covenant shall specifically include the following terms:

(a) The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association.

(b) The covenant shall include a periodic maintenance schedule.

(c) The covenant for maintenance shall be enforceable by any property owner served by the private street.

(d) The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.

(e) The covenant shall run with the land.

(f) The City, as a condition of approving private streets, shall require a performance bond and/or maintenance bond and/or maintenance bond by the subdivider as described in Section 11-12-9 and Section 11-12-10 be submitted by the subdivider.

Section 11-9-7. Specifications for Final Plats Involving Private Streets

No final plat involving a private street shall be approved by the Director of Community and Economic Development for recording unless and until it shall contain the following on the face of the plat:

(a) Covenants, or reference to the deed book and page of the recorded covenants.

(b) "The City of Gainesville has no responsibility to build, improve, maintain, or otherwise service the private streets, drainage improvements, and other appurtenances contained within the general public purpose access and utility easement or easements for private streets shown on this plat."

(c) "Grant of Easement. The general purpose access and utility easement(s) shown on this plat for private street(s) is (are) hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the City of Gainesville, and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

_____

Signature of Property Owner"

Section 11-9-8. Purchaser's Acknowledgement

Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the city, the subdivider or seller of said lot shall execute a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of Private Street and Drainage Maintenance Responsibility.

(I) (We) have read the Declaration of Covenant which pertains to the lot that is the subject of this real estate transaction _____ (insert address and attach legal description). (I) (We) understand that the Declaration of Covenant applies to the lot that (I am) (we are) purchasing and requires (me) (us) to provide a specified percentage

or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am) (we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me) (us) to pay, plus their damages resulting from (my) (our) refusal to contribute, plus reasonable attorneys fees. (I) (we) further understand that the City has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. I (we) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) (we are) purchasing.

_____

Purchaser"

Section 11-9-9. Gated Communities

Gates must be set back a minimum of 50 feet from a public right-of-way. The minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than 30 feet. Gate width and placement must be reviewed by, and are subject to approval by, the Fire Department.

Arrangements for access through the gate for emergency service vehicles must be reviewed by, and are subject to the approval of, the Police and Fire Departments. Such arrangements may include: keypad code entry; occupant telephone authorized entry; personal service attendant 24 hours a day, 7 days a week; and/or automatic gate opening upon power disconnect.

CHAPTER 11-10 UTILITIES

Section 11-10-1. Sanitary Sewerage

(a) Connection required. Except as otherwise required in this section, each subdivider and land developer shall be required to pay for the installation of a sanitary sewerage collection system connected to the city's system serving his subdivision or land development. The layout and specifications of the system shall be in accordance with city specifications, as approved by the Director of Water Resources, and shall be installed by a contractor approved by the city.

(b) Connection to decentralized wastewater system. Where connection to the sanitary sewerage system is not feasible in the view of the Director of Water Resources, the lot shall contain adequate area for the installation and safe operation of the decentralized wastewater system, as approved by the Hall County Environmental Health Department.

Section 11-10-2. Water Service

(a) Connection required. Each subdivision or development shall connect to the city's water system and shall provide service to each lot or the development as a whole, as appropriate, at the expense of the subdivider or land developer.

(b) Specifications. The layout and specifications of the system shall be in accordance with city specifications, as approved by the Director of Water Resources, and shall be installed by a contractor approved by the city.

(c) Fire hydrants. Fire hydrants shall be installed in subdivisions and developments and shall meet the requirements of the fire department.

CHAPTER 11-11 STORMWATER MANAGEMENT

Section 11-11-1. Purposes.

(a) This chapter defines requirements for stormwater management and outlines the water quantity and quality performance criteria for managing stormwater runoff. The majority of technical stormwater criteria and standards are adopted by reference through the use of the latest revision of the Georgia Stormwater Management Manual (GSMM).

(b) The purposes of this chapter are also to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

Section 11-11-2. Objectives

This chapter seeks to meet its purposes through the following objectives:

(a) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;

(b) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(c) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;

(d) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable;

(e) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and

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

Section 11-11-3. Definitions

(a) **Administrative floodplain**: Any land area susceptible to flooding, which would have at least a 1% probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the projected future land use map.

(b) **Administrator**: The person appointed to administer and implement this chapter. The Director of the Department of Water Resources, or his/her designee, will serve as Administrator for the purposes of this chapter.

(c) **Applicant**: A person submitting a land development application for approval.

(d) **BMP or best management practice**: Both structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to prevent or reduce the pollution of the waters of the State of Georgia.

(e) **BMP landscaping plan**: A design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants and plant names (local and scientific).

(f) **Channel**: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

(g) **Conservation easement**: An agreement between a land owner and the city or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

(h) **Construction sequencing plan**: A document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post- construction BMPs to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration BMPs.

(i) **Decentralized wastewater system**: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

(j) **Department of Water Resources**: A public agency with authority over the water systems of the city.

(k) **Department of Water Resources Director**: The Director of the Department of Water Resources of the city, or his or her designee, whose duties include the review and approval of construction plans for water resources for the city.

(l) **Design professional**: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying, or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professional shall practice in a manner that complies with applicable Georgia law governing professional licensure.

(m) **Detention**: The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

(n) **Detention facility**: A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

(o) **Development**: New development or redevelopment.

(p) **Drainage easement**: An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement. Both streams and storm drainage channels are required to have easements for maintenance purposes as specified in this chapter.

(q) **Erosion and Sedimentation Control Plan** means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

(r) **Extended detention**: The detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

(s) **Extreme flood protection**: Measures taken to prevent adverse impacts from large low- frequency storm events with a return frequency of one hundred (100) years or more.

(t) **Flooding**: A volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

(u) **Greenspace or open space**: Permanently protected areas of the site that are preserved in a natural state.

(v) **GSMM**: The latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices.

(w) **Hotspot**: A land use or activity on a site that produces higher concentrations of trace metals, hydrocarbons, or other priority pollutants that are normally found in urban stormwater runoff. Examples of hotspots include but are not limited to, gas stations, vehicle service and maintenance areas, industrial facilities such as salvage yards, material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use.

(x) **Hydrologic soil group (HSG)**: A natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

(y) **Impervious surface**: A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, sidewalks, driveways, parking lots, and any other concrete or asphalt surface. Also called impervious cover.

(z) **Improvements**: The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

(aa) **Industrial stormwater general permit**: The National Pollutant Discharge Elimination System (NPDES) permit issued by Georgia Environmental Protection Division to an industry for stormwater discharges associated with industrial activity. The permit regulates pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on the Standard Industrial Classification (SIC) Code.

(bb) **Infiltration**: The process of percolating stormwater runoff into the subsoil.

(cc) **Inspection and maintenance agreement**: A written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management system and its components on a site.

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

(ee) **Land development**: Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

(ff) **Land disturbing activities**: Any activity which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands within the State, including but not limited to clearing, dredging, grading, excavating, and filling of land. Land disturbing activity does not include agricultural operations as described in O.C.G.A. § 12-7-17(5) or forestry land management practices as described in O.C.G.A. § 12-7-17(6) within areas zoned for such activities.

(gg) **Land development application**: The application for a land development permit on a form provided by the city along with the supporting documentation required by this chapter.

(hh) **Land development permit**: The authorization necessary to begin construction-related, land- disturbing activity.

(ii) **Linear feasibility program**: A feasibility program developed by the Department of Water Resources and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by the city is infeasible.

(jj) **Linear transportation projects**: Construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trains, and airport runways and taxiways.

(kk) **MS4 Permit**: The NPDES permit issued by Georgia Environmental Protection Division for discharges from the city's municipal separate storm sewer system.

(ll) **Municipal utility**: A utility owned and operated by a local government and providing drinking water, wastewater and stormwater management facilities and services.

(1) **Sewer system**: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by the city Department of Water Resources.

(2) **Water system**: A system for the intake, treatment and distribution of potable water that is owned and operated the city Department of Water Resources.

(3) **Stormwater system**: A system of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff.

(mm) **New development**: A land development activity on a previously undeveloped site.

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

(oo) **Nonstructural stormwater management practice or nonstructural practice**: Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, stream buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

(pp) **Off-site facility**: A stormwater management facility located outside the boundaries of the site.

(qq) **On-site facility**: A stormwater management facility located within the boundaries of the site.

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

(ss) **Owner**: The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

(tt) **Permit**: The permit issued by the city to the applicant which is required for undertaking any land development activity.

(uu) **Person**: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity, except to the extent exempted from this code.

(vv) **Post-construction stormwater management**: Stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

(ww) **Post-development**: The time period, or the conditions that may reasonably be expected or anticipated to exist, immediately after completion of the land development activity on a site as the context may require.

(xx) **Practicability policy**: The latest edition of the Metropolitan North Georgia Water Planning District's policy on practicability analysis for runoff reduction.

(yy) **Pre-development**: The time period, or the conditions that exist, on a site immediately before the implementation of the proposed development. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

(zz) **Previously developed site**: A site that has been altered by paving, construction, and/or land disturbing activity.

(aaa) **Professional engineer**: An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the state.

(bbb) **Project**: A land development project.

(ccc) **Redevelopment**: Structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling.

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

(eee) **Routine maintenance**: Activities to keep an impervious surface as near as possible to its currently constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

(fff) **Runoff**: Stormwater runoff.

(ggg) **Site**: An area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

(hhh) **Stormwater better site design**: Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, implementing lower impact site design techniques, and using natural features for stormwater management.

(iii) **Stormwater concept plan**: An initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan, including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

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

(kkk) **Stormwater management facility**: Any infrastructure that controls or conveys stormwater runoff.

(lll) **Stormwater management measure**: Any stormwater management facility or nonstructural stormwater practice.

(mmm) **Stormwater management plan**: A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Code.

(nnn) **Stormwater management system**: The entire set of structural and nonstructural site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

(ooo) **Stormwater retrofit**: A stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

(ppp) **Stormwater runoff**: Flow on the surface of the ground, resulting from precipitation.

(qqq) **Subdivision**: The division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

(rrr) **Watercourse**: Any natural or artificial surface water conveyance, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently; a natural watercourse has a definite bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Other terms used but not defined in this chapter shall be interpreted based on how such terms are defined and used in the GSMM and the city's MS4 permit.

Section 11-11-4. Stormwater Management Report Required

(a) All persons proposing development or construction in the city that meets the applicability requirements of this chapter shall prepare a stormwater management report, unless specifically exempted from the requirements of this chapter. No final subdivision plat shall be approved and no development or building permit shall be issued until and unless the stormwater management report has been reviewed and approved by the administrator, except as exempted below.

(b) This report must be submitted with the stamp and signature of a professional engineer (PE) licensed in the state, who must verify that the design of all stormwater management facilities and practices meet submittal and permitting requirements. The engineer sealing the stormwater management report is responsible for ensuring that all permit requirements related to Section 404 of the Clean Water Act are met.

(c) Stormwater management reports shall not be required for activities that are exempted from the provisions of this chapter by Section 11-11-6.

Section 11-11-5. Applicability

The provisions of this chapter apply to any new development or redevelopment site that meets one or more of the following criteria as determined appropriate by the Director of Water Resources:

(a) New development that creates or adds 5,000 square feet or more of new impervious surface or that involves land disturbing activity of 1 acre of land or more;

(b) Redevelopment (excluding routine maintenance and exterior remodeling) that creates, adds or replaces 5,000 square feet or more of new impervious surface area or that involves land disturbing activity of one acre of land or more;

(c) New development and redevelopment if:

(1) Such new development or redevelopment is part of a subdivision or other common plan of development, and

(2) The sum of all associated impervious surface area or land disturbing activities that are being developed as part of such subdivision or other common plan of development meets or exceeds the threshold in (a) and (b) above;

(3) Hillsides or slopes are 15% or more that are cleared or graded, and

(d) Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use as defined in this chapter; and

(e) Linear transportation projects that exceed the threshold set forth in subsections (a) or (b) above.

Section 11-11-6. Exemptions

The following activities are exempt from the requirements this chapter:

(a) Land disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or to conduct emergency repairs;

(b) Land disturbing activity that consists solely of cutting a trench for utility work and related pavement replacement;

(c) Land disturbing activity conducted by local, state, authority, or federal agencies, whose sole purpose is to implement stormwater management or environmental restoration;

(d) Repairs to any stormwater management system deemed necessary by the Department of Water Resources or Department of Community and Economic Development;

(e) Agricultural operations or forestry land management activities or practices as described in O.C.G.A. §§ 12-7-17(5) and 12-7-17(6) within areas zoned for such activities;

(f) Additions or modifications to existing single-family detached or duplex residential structures, except as provided in Section 9-11-11-5;

(g) Single-family detached lots and two family lots that are cleared or disturbed on slopes with a grade of less than 15%;

(h) Single-family detached lots and two-family lots that contain less than 1 acre of disturbed area; however, development of any such lot shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6, as amended;

(i) Installations or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including but not limited to elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits; and

(j) Linear transportation projects being constructed by the city to the extent the administrator determines that the stormwater management standards may be infeasible to apply, all or in part, for any portion of the linear transportation project. For this exemption to apply, any infeasibility report that is compliant with the city's linear feasibility program shall first be submitted to the administrator and shall contain adequate documentation to support the evaluation for the applicable portion(s) and any resulting infeasibility determination, if any, by the administrator.

Section 11-11-7. Variances

The Director of Water Resources may grant a variance from the requirements of this chapter if the proposed development activity will not:

(a) Change the rate or volume of runoff significantly, as specified in the GSMM;

(b) Have a significant, negative impact on any wetland, watercourse, or water body as specified in the GSMM; or

(c) Contribute to degradation of water quality; and

(d) The application of the stormwater design sizing criteria is determined to be infeasible to implement based on a feasibility study.

Section 11-11-8. Adoption and Implementation of the GSMM: Conflicts and Inconsistencies

(a) The latest version of the Georgia Stormwater Management Manual (GSMM) including all related appendices, will provide the primary guidance for the design and evaluation of stormwater management facilities in the city. A copy of the GSMM may be viewed in the Department of Water Resources or may be accessed online.

(b) This chapter is not intended to modify or repeal any other chapter, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws, and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in the city's MS4 permit and this chapter, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this chapter and the GSMM, the provision from this chapter shall control. In the event of any other conflict or inconsistency between any provision of this chapter and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.

(c) If any provision of this chapter is invalidated by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of this chapter.

Section 11-11-9. Designation of Administrator

The Director of the Department of Water Resources may from time to time appoint a designee to administer and implement this chapter.

Section 11-11-10. Stormwater Management Standards

Subject to the applicability criteria in Section 11-11-5, exemptions in Section 11-11-6, and variances in Section 11-11-7, the following stormwater management standards apply. Additional details for each standard can be found in the GSMM:

(a) Design of Storm Management System: The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM as directed by the administrator. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

(b) Natural Resources Inventory: Site reconnaissance and surveying techniques shall be used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the Stormwater Management Plan, shall include, at a minimum (as applicable):

(1) Topography (minimum of 2-foot contours) and Steep Slopes (i.e., Areas with Slopes Greater Than 15%);

(2) Natural Drainage Divides and Patterns;

(3) Natural Drainage Features (e.g., swales, basins, depressional areas);

(4) Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors;

(5) Predominant soils (including erodible soils and karst areas); and

(6) Existing predominant vegetation including trees, high quality habitat and other existing vegetation.

(c) Better Site Design Practices for Stormwater Management: Stormwater management plans shall preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3.

(d) Stormwater Runoff Quality/Reduction: Stormwater Runoff Quality/Reduction shall be provided by using the following:

(1) For development with a stormwater management plan submitted before December 6, 2020, the applicant may choose either (A) Runoff Reduction or (B) Water Quality.

(2) For development with a stormwater management plan on or after December 6, 2020, the applicant shall choose (A) Runoff Reduction and additional water quality shall not be required. To the extent (A) Runoff Reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy, then (B) Water Quality shall apply for the remaining runoff from a 1.2-inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.

i. Runoff Reduction - The stormwater management system shall be designed to retain the first 1.0 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.

ii. Water Quality – The stormwater management system shall be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM for runoff from a 1.2-inch rainfall event.

(3) If a site is determined to be a hotspot, the Department of Water Resources may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.

(e) Stream Channel Protection: Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three (3) approaches:

(1) 24-hour extended detention storage of the one-year, 24-hour return frequency storm event;

(2) Erosion prevention measures such as energy dissipation and velocity control; and

(3) Preservation of any applicable stream buffer;

(f) Overbank flooding protection: Downstream overbank flood protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre- development rate for the 25-year, 24-hour storm event.

(g) Extreme flooding protection: Extreme flood protection shall be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated.

(h) Downstream Analysis: Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis shall be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site

comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system.

(i) Stormwater Management System Inspection and Maintenance: The components of the stormwater management system that will not be dedicated to and accepted by the city, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, shall have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This plan shall be written in accordance with the requirements in Section 11-11-21.

Section 11-11-11. Pre-Submittal Meeting, Stormwater Concept Plan, and Stormwater Management Plan Requirements

(a) Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the Department of Water Resources. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting with the Department of Water Resources when applying for a Determination of Infeasibility through the Practicability Policy set forth by the Department of Water Resources.

(b) The stormwater concept plan shall be prepared using the minimum following steps:

(1) Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).

(2) Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).

(3) Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).

(c) The stormwater concept plan shall contain:

(1) Common address and legal description of the site,

(2) Vicinity map, and

(3) Existing conditions and proposed site layout mapping and plans (recommended scale of 1” = 50’), which illustrate at a minimum:

i. Existing and proposed topography (minimum of 2-foot contours),

ii. Perennial and intermittent streams,

iii. Mapping of predominant soils from USDA soil surveys,

iv. Boundaries of existing predominant vegetation and proposed limits of clearing and grading,

v. Location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, decentralized wastewater system setbacks, etc.),

vi. Location of existing and proposed roads, buildings, parking areas and other impervious surfaces,

vii. Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements,

viii. Preliminary estimates of unified stormwater sizing criteria requirements,

ix. Preliminary selection and location, size, and limits of disturbance of proposed BMPs,

x. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains,

xi. Flow paths,

xii. Location of the boundaries of the base flood floodplain, future- conditions floodplain, and the floodway (as applicable) and relationship of site to upstream and downstream properties and drainage, and

xiii. Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings.

(d) The stormwater management plan shall contain the items listed in this part and be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the state of Georgia. Items (iii), (iv), (v), and (vi) shall be sealed and signed by a registered Professional Engineer licensed in the state of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7):

(1) Natural Resources Inventory

(2) Stormwater Concept Plan

(3) Existing Conditions Hydrologic Analysis

(4) Post-Development Hydrologic Analysis

(5) Stormwater Management System

(6) Downstream Analysis

(7) Erosion and Sedimentation Control Plan

(8) BMP Landscaping Plan

(9) Inspection and Maintenance Agreement

(10) Evidence of Acquisition of Applicable Local and Non-Local Permits

(11) Determination of Infeasibility (if applicable)

(12) Construction Sequencing Plan

(e) For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards the following must also be included in the stormwater management plan for existing stormwater management structures:

(1) As-built Drawings

(2) Hydrology Reports

(3) Current inspection of existing stormwater management structures with deficiencies noted

(4) BMP Landscaping Plans

Section 11-11-12. Application Procedures

Land development applications are handled as part of the process to obtain the land disturbance permit. Before any person begins development on a site, the owner of the site shall first obtain approval in accordance with the following procedure:

(a) File a land development application with the Department of Community and Economic Development with the following supporting materials:

(1) the stormwater management plan prepared in accordance with Section 11-11-11,

(2) a certification that the development will be performed in accordance with the stormwater management plan once approved,

(3) a Preliminary Determination of Infeasibility, as applicable, prepared in accordance with the practicability policy set forth by the Department of Water Resources, and

(4) an acknowledgement that applicant has reviewed the Department of Water Resources form of inspection and maintenance agreement and that applicant agrees to sign and record such inspection and maintenance agreement before the final inspection.

(b) The administrator shall inform the applicant whether the application and supporting materials are approved or disapproved.

(c) If the application or supporting materials are disapproved, the administrator shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same for the administrator to again consider and either approve or disapprove.

(d) If the application and supporting materials are approved, the Department of Water Resources may issue the associated land disturbance permit or building permit, provided all other legal requirements for the issuance of such permits have been met. The stormwater management plan included in such applications becomes the approved stormwater management plan.

Section 11-11-13. Compliance with the Approved Stormwater Management Plan

(a) All development shall be:

(1) consistent with the approved stormwater management plan and all applicable land disturbance and building permits, and

(2) conducted only within the area specified in the approved stormwater management plan.

(b) No changes may be made to an approved stormwater management plan without review and advanced written approval by the administrator.

Section 11-11-14. Use of Stormwater Quality Site Development Review Tool Required

(a) An automated spreadsheet tool was developed to facilitate the consistent review of development projects across the 15-county Metropolitan North Georgia Water Planning District (the district), of which the city is a part. The tool was specifically designed to meet the unified sizing and water quality performance criteria outlined in the Georgia Stormwater Management Manual. The overall goal is to provide an effective tool for city review staff and the development community to quickly evaluate the water quality performance of stormwater management plans for development sites. It allows the developer to use a variety of BMPs and provides incentives for leaving key areas, particularly stream buffers, undisturbed.

(b) The city requires every project, unless otherwise exempt, to use the latest stormwater quality site development review tool. A copy of the tool is available upon request from the Department of Water Resources.

Section 11-11-15. Inspections to Ensure Plan Compliance During Construction

Periodic inspections of the stormwater management system during construction shall be conducted by the staff of the Department of Water Resources or conducted and certified by a professional engineer who has been approved by the Department of Water Resources. Inspections shall use the approved stormwater management plan and the

construction sequencing plan for establishing compliance. All inspections shall be documented with written reports that contain the following information:

(a) The date and location of the inspection;

(b) Whether the stormwater management system is in compliance with the approved stormwater management plan;

(c) Variations from the approved stormwater management plan; and

(d) Any other variations or violations of the conditions of the approved stormwater management plan.

Section 11-11-16. Final Inspection; As-Built Drawings; Delivery of Inspection and Maintenance Agreement

(a) Upon completion of the development, the applicant is responsible for:

(1) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis,

(2) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,

(3) Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and

(4) Delivering to the Department of Water Resources a signed inspection and maintenance agreement that has been recorded by the owner in the property record for all parcel(s) that make up the site.

(b) The required certification under subsection (1) shall include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan. This certification and the required performance tests shall be performed by a design professional and submitted to the Department of Water Resources with the request for a final inspection. The Department of Water Resources shall perform a final inspection with applicant to confirm applicant has fulfilled these responsibilities.

Section 11-11-17. Violations and Enforcement

Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or failure of the final inspection shall constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit or the underlying building permit. To address a violation of this chapter, the Department of Water Resources shall have all the powers and remedies that are available to it for other violations of building and land disturbance permits, including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties as set forth in the applicable ordinances for such permits.

Section 11-11-18. Maintenance by Private Parties

On all commercial sites and on residential property where stormwater management facilities exist, the maintenance is the responsibility of the owner or operator of the property. It shall be the responsibility of the owner or operator to repair deficiencies in a timely manner.

Section 11-11-19. Maintenance by Property or Homeowners Associations

When a subdivision or industrial/commercial park has a legally created property or homeowners association, the association will be responsible for maintenance of all drainage easements and all stormwater facilities within the entire development. The association may be required to apply larvicides, stock mosquito fish or take other measures,

as required by the Department of Water Resources, to protect the health, safety and welfare of the public. The association shall be formed prior to final plat approval.

Section 11-11-20. Maintenance by Owner of Stormwater Management Systems Predating Current GSMM

For any stormwater management systems approved and built based on requirements predating the current GSMM and that are not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.

Section 11-11-21. Inspection and Maintenance Agreements

(a) The owner shall execute an inspection and maintenance agreement with the Department of Water Resources obligating the owner to inspect, clean, maintain, and repair the stormwater management system; including vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement shall be the form provided by the Department of Water Resources. After the inspection and maintenance agreement has been signed by the owner and filed with the Department of Water Resources, the City shall promptly record such agreement in the property record for all parcel(s) that make up the site.

(b) The inspection and maintenance agreement shall identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement. The owner shall update the point of contact from time to time as needed and upon request by the Department of Water Resources. Upon any sale or transfer of the site, the new owner shall notify the Department of Water Resources in writing within 30 days of the name or official title of the new person(s) serving as the point of contact for the new owner. Any failure of an owner to keep the point of contact up to date shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.

(c) The inspection and maintenance agreement shall run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:

(1) The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties shall record and provide written notice and a copy of such assignment agreement to the Department of Water Resources.

(2) In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement, regardless of what portion of the site they own.

Section 11-11-22. Right of Entry for Maintenance Inspections

(a) The terms of the inspection and maintenance agreement shall provide for the Department of Water Resources or a designee right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement, or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the Department of Water Resources shall have the right to enter and inspect property at reasonable times as often as may be necessary to determine compliance with this chapter, pursuant to the city's general provisions for property access and inspection in this code, including but not limited to chapter 4-7 of the City of Gainesville Code of Ordinances and Chapter 12-1 and Article 16 of this Unified Land Development Code.

(b) Where it is necessary to make an inspection to enforce the provisions of this code, or where the Department of Water Resources has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the Department of Water Resources is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises are occupied that credentials be presented to the occupant and entry requested. If such structure or premises are unoccupied, the Department of Water Resources shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Department of Water Resources shall have recourse to the remedies provided by law to gain entry.

Section 11-11-23. Owner's Failure to Maintain the Stormwater Management System

The terms of the inspection and maintenance agreement shall provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to the Department of Water Resources. If a site was developed before the requirement to have an inspection and maintenance agreement, or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:

(a) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations in code chapters 3-5 or 4-7 of the City Code of Ordinances, Article 16 of this Unified Land Development Code, and this chapter.

(b) To address such a failure to maintain the stormwater management system, the Department of Water Resources shall have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.

Section 11-11-24. Reference to Unified Stormwater Sizing Criteria

The GSMM has developed a set of unified stormwater sizing criteria that serves as the basis of designing stormwater facilities in the city. These criteria provide an integrated approach for meeting the stormwater runoff quality and quantity management requirements for those applicable developments identified in this section.

The purpose of the unified stormwater sizing criteria is to design a stormwater management system to:

(a) Remove stormwater runoff pollutants and improve water quality;

(b) Prevent downstream stream bank and channel erosion;

(c) Reduce downstream overbank flooding; and

(d) Reduce the runoff from and safely pass extreme storm events.

Section 11-11-25. Stormwater Design Sizing Criteria

Stormwater management typically relies on a system of natural and constructed facilities (practices) for the storage, treatment, and conveyance of runoff. This section provides an overview of the design criteria required for stormwater detention and conveyance facilities in the city.

(a) Stormwater facilities generally. Stormwater facilities in the city must be designed to meet the criteria in the following table using the appropriate runoff calculation methods described in this section. Additional discussion of these criteria can be found in the following subsections and in Volume II, Section 2.2.3 of the Georgia Stormwater Management Manual.

Table 11-6: Summary of the Statewide Stormwater Sizing Criteria for Stormwater Control and Mitigation

Sizing Criteria		Description
Water Quality	Runoff Reduction, RR_v (Standard #3)	Retain or reduce the runoff for the first 1.0 inch of rainfall, or to the maximum extent practicable. Since runoff reduction practices eliminate stormwater runoff, and the pollutants associated with it, rather than treating or detaining, they can contribute to other stormwater management standards. If the entire 1.0 inch runoff reduction cannot be achieved, the remaining runoff from the 1.2 inch rainfall must be treated, as described in Standard #4.
	Treatment, WQ_v (Standard #4)	Retain or treat the runoff from 85% of the storms that occur in an average year. For Georgia, this equates to providing water quality treatment for the runoff resulting from a rainfall depth of 1.2 inches. The water quality treatment goal is to reduce average annual post-development total suspended solids loadings by 80%.
Channel Protection		Provide extended detention of the 1-year, 24-hour storm event released over a period of 24 hours to reduce bankfull flows and protect downstream channels from erosive velocities and unstable conditions.
Overbank Flood Protection		Provide peak discharge control of the 25-year, 24-hour storm event such that the post-development peak rate does not exceed the predevelopment rate to reduce overbank flooding.
Extreme Flood Protection		Evaluate the effects of the 100-year, 24-hour storm on the stormwater management system, adjacent property, and downstream facilities and property. Manage the impacts of the extreme storm event through detention controls and/or floodplain management.
Notes: Source: Georgia Stormwater Management Manual, Volume II, Table 2.2.3-1.		

(b) Water quality. All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

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

(2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and

(3) Runoff from hotspot land uses and activities identified by the Department of Water Resources are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(4) Any site developed before December 6, 2020 may choose either Standard #3 or

(5) #4, as set forth above, to meet the water quality criteria. Any site developed on or after December 6, 2020 must use Standard #3 – Runoff Reduction to meet the water quality criteria.

(c) Structural stormwater controls. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the Department of Water Resources before being included in the design of a stormwater management system. Proprietary devices may be authorized on a case-by-case basis only. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than

that provided by the minimum control requirements, Department of Water Resources may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question. Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(d) Stormwater credits for nonstructural measures. The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required. The applicant may, if approved by the Department of Water Resources, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

Section 11-11-26. Stormwater Runoff Computation

Computations for rate of runoff shall be based on the rainfall intensities for any location across Georgia. Information related to rainfall intensities can be obtained through the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 publication, or online using the Precipitation Frequency Data Server database (http://hdsc.nws.noaa.gov/hdsc/pfds). NOAA precipitation data should be used for all hydrologic analysis at the given locations. Additional information regarding how the values in this database were derived can be accessed using the link above. Computing runoff and generating hydrographs must be done by one of the methods outlined in the GSMM, Volume II, Section 5. The table below summarizes the hydrologic calculation methods that will be accepted by the Department of Water Resources and the section reference from the GSMM that explains each. The table also provides guidelines for using the appropriate method based on the size of the drainage area. Additional information relating to the design of conveyance structures can be found in the GSMM. As noted, the rational formula can only be used to design conveyance systems, one of the other methods listed must be used for designing the stormwater detention facilities.

Table 11-7: Methods for Stormwater Runoff Computation

Computation Task	GSMM Chapter	Rational Formula	SCS	USGS Equations	Water Quality Volume
Size Limitations for Each Method		25 acres	25 to 2,000 acres	2,000 acres to 25 square miles	Based on BMP
Water Quality Volume (WQ_v)	2.2				X
Channel Protection Volume (CP_v)	2.2		X		
Overbank Flood Protection (QP_{25})	2.2		X	X	
Extreme Flood Protection (Q_f)	2.2		X	X	
Storage Facilities	3.3		X	X	
Outlet Structures	3.4		X	X	

Computation Task	GSMM Chapter	Rational Formula	SCS	USGS Equations	Water Quality Volume
Gutter Flow and Inlets	5.2	X			
Storm Drain Pipes	5.2	X	X	X	
Culverts	5.3	X	X	X	
Small Ditches	5.4	X	X	X	
Open Channels	5.4		X	X	
Energy Dissipation	5.5		X	X	
Source: Georgia Stormwater Management Manual, Volume II, Table 3.1.1-1.					

Section 11-11-27. Water Quality Performance Criteria

Total suspended solids (TSS) are a key pollutant associated with sediment runoff. It also serves as a "carrier" of other pollutants such as organics, nutrients, and metals. Thus, TSS, a measure of suspended matter-including soils and sediments, will serve as the watershed improvement guideline for managing pollutants.

(a) If using water quality standard #4 from Table 2.2.3-1 of the GSMM, stormwater management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove 80% of the average annual post-development TSS load and be able to meet any other additional watershed- or site-specific water quality requirements. All stormwater detention facilities shall be designed to control the peak flow rates associated with storms having one-, 25- and 100-year storm frequencies as specified in the table above.

(b) If using water quality standard #3 from Table 2.2.3-1 of the GSMM, stormwater management systems (which can include both structural stormwater controls and better site design practices) must retain or reduce the runoff for the first 1.0 inch of rainfall, or to the maximum extent practicable. If the entire 1.0 inch runoff reduction cannot be achieved, the remaining runoff from the 1.2 inch rainfall must be treated as described for standard #4.

(c) A combination of subsections (a) and (b) can be utilized to meet the water quality standard. Any site developed on or after December 6, 2020 must use (b) standard #3 set forth in subsection (b) to meet the water quality criteria

(d) Use of the stormwater quality site development review tool, described in this chapter, provides the developer and reviewer with a summary of the TSS reduction from each of the drainage areas and also presents the overall TSS reduction efficiency of the planned site. Please note that if this overall efficiency is less than 80%, then the site will fail to meet the recommendations of the Georgia Stormwater Management Manual and will not be approved.

Section 11-11-28. Storm Drain Pipe Design

Piped drainage structures shall be designed to meet the following criteria:

(a) Street catch basins, inlets, culverts serving basins of 20 acres or less and longitudinal piping shall be designed for the 25-year storm, shall have a minimum slope of 1%, and shall have a minimum size of 18 inches in diameter.

(b) Inlet and outlet headwalls are required for all pipes.

(c) The 100-year storm frequency shall be used on natural streams, culverts serving basins of 20 acres or larger and any other drainage system receiving and/or transferring offsite drainage flow.

(d) Velocities for all pipes should be kept to a minimum of 2.5 feet per second and outlet velocities, if practical, shall not exceed 4 feet per second when flowing full. However, if outlet velocities exceed 5 feet per second then energy dissipation devices and/or channel protection must be provided.

(e) The downstream end of all storm drain pipe shall be located at a minimum of 50 feet past the building line for pipe sizes up to and including 36 inches in diameter, unless the storm drainage conveys stream flow.

(f) For all pipe design, the designer shall check the 25-year hydraulic grade line to determine that no inlet structures are flooded and that the collection capacity of any structure has not been compromised by the 25-year ultimate hydraulic grade line, and that any street crossing has not been compromised by the 100-year ultimate hydraulic grade line.

(g) Storm drain pipes shall be constructed of class III reinforced concrete or thermoplastic corrugated-smooth lined (HDPE). Aluminized type II corrugated culvert is discouraged but may be accepted on a case-by-case basis as determined by the Department of Water Resources Director. Pipe materials, related connections, and fittings shall meet the following requirements and specifications noted below.

Section 11-11-29. Pipe References and Requirements

Pipe references and requirements are as follows:

(a) Reinforced concrete: AASHTO M170, ASTM C-969, minimum eight-foot joint lengths, bell and spigot with rubber O-ring gasket conforming to ASTM C-361, class of pipe and wall thickness shall be in accordance with 1030D, Georgia GDOT specifications, Table 1.

(b) Aluminized type II corrugated culvert: AASHTO M36, AASHTO M274, AASHTO M196, ASTM C-969, ASTM B74512 gauge minimum.

(c) High density polyethylene: AASHTO M294 Type "S", AASHTO MP7 and type "S", ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, and shall be certified through the Plastic Pipe Institute Third Party Certification.

(d) Polyvinyl chloride (PVC): AASHTO M304, ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, ASTM F949, ASTM F794 and F949, and shall be certified through the Plastic Pipe Institute Third Party Certification.

(e) Thermoplastic pipes: All thermoplastic pipes shall have a full circular cross section with an outer corrugated pipe wall and smooth inner wall. Deflection under loads that contributes to local buckling shall not be decreased by more than 5% (AASHTO M294 and MP7 Sec. 7.4) when tested in accordance with ASTM D-2412. The structural design of thermoplastic pipes shall be in accordance with AASHTO Section 12 titled "Buried Structures and Tunnel Liners."

Section 11-11-30. Pipe Installation Specifications

Pipe installation specifications are as follows:

(a) Foundation and bedding. Unsuitable or unstable foundations shall be undercut and replaced with suitable material. A four-inch to six-inch bedding of class I or II shall be placed and compacted to a minimum of 90% standard proctor density and as per AASHTO T99, AASHTO M145. Haunching materials shall be class I, II, or III and shall be worked under the haunches by hand compaction in eight-inch maximum lifts to 90% standard proctor density. All materials and installation (compaction and bedding) shall meet AASHTO Section 30, AASHTO Section 12, ASTM 2321 and manufacturer's latest specifications. Pipes shall be installed in a dry trench.

(b) Initial backfill. Shall meet the requirements of AASHTO M145, AASHTO Section 12 and shall be one and twenty-four one-hundredths (1.24) inches maximum granular size and minimum compaction of 90% standard proctor density as per AASHTO T99.

(c) Watertight. All joints and connections to drainage structures shall be watertight per ASTM F-1417, inspected and approved by the Department of Water Resources before backfilling.

(d) Street crossings. Thermoplastic corrugated-smooth lined pipe may only be installed in street culverts where the street is classified as a local road, serves 25 or fewer lots, and shall be approved by the Department of Water Resources.

(e) Streams. Stormwater pipes carrying stream flow shall be reinforced concrete or thermoplastic pipe and shall be approved by the Department of Water Resources Director.

(f) Construction. Any storm drainage pipe dedicated to the city shall be constructed using reinforced concrete pipe or thermoplastic pipe.

(g) Easement. Any storm drainage pipe dedicated to the city that extends outside of the street right-of-way shall be located within an easement at least 30 feet in width.

(h) Depth. All storm drainage pipes shall be at least 18 inches below the surface and shall have a slope of at least 1%.

(i) Connection to public system. Development storm drain outlet systems shall connect to a public stormwater conveyance system or to a free-flowing stream, assuming that the post-development stormwater requirements in this chapter are met. The developer shall be required to provide evidence of acceptable capacity to receive additional flow.

(j) Structures. Under no circumstances shall structures be constructed over an existing or proposed storm drain, whether public or private.

(k) Location. All pipes shall be laid in a straight line between structures and longitudinal outside street pavement within the right-of-way or outside right-of-way in dedicated easements. No pipes shall be laid within 4 feet on each side of the center line of any water main or sanitary sewer, unless with the permission of the city engineer. Pipes and fittings will be installed in strict accordance with AASHTO Section 30 and AASHTO Section 12.

(l) Junction boxes. Junction boxes shall be installed where the storm drain changes direction and where one pipe or more intersect. Minimum cover will be 18 inches from finished street elevation to top of pipe.

Section 11-11-31. Headwalls

(a) Headwalls or flared end sections with concrete collars are required at the inlet and outlet on all street culverts and storm drain pipes.

(b) Headwalls are to be precast concrete, stone masonry with reinforced concrete footings, or poured-in-place, reinforced concrete with reinforced concrete footings.

(c) Flared end sections shall be constructed of the same material as the drainage pipe to which they are being connected.

(d) High water elevation contour is to be based on a 25-year storm at the entrance of each head wall.

(e) Energy dissipation devices, such as splash pads, riprap, stilling basins, etc., shall be provided at the outlet of every street culvert and storm drain pipe.

Section 11-11-32. Open Channels

(a) All storm water channels shall be designed to carry at least the 25-year frequency storm with one foot of freeboard.

(b) Velocity at design flow shall be not less than six (6) inches per second but not greater than four (4) feet per second. A higher velocity may be allowed if actions are taken that would avoid erosion or scouring of the channel.

(c) All storm water channels must be designed to convey flows that prevent dwelling flooding, property damage, or public access and/or utility interruption.

(d) The Department of Water Resources may determine that the expected long-term maintenance of a surface drainage system could prove impractical, and a storm water pipe collection system may be required.

(e) Any storm drainage channel that extends outside of the street right-of-way shall be located within a 30-foot wide easement.

(f) In cases in which a subdivision or development is traversed by a stream, there shall be provided an easement extending fifteen (15) feet from the top of each side of the stream bank. A stream protection buffer may be required according to chapter 9-16-3.

(g) All drainage easements, ditches, and drainage areas shall be grassed and/or rip-rapped as necessary to control erosion.

(h) Culverts under driveways shall meet the standards for street culverts.

Section 11-11-33. General Stormwater Design Criteria

(a) The Department of Water Resources may permit several developers to construct joint facilities. The Department of Water Resources shall approve or disapprove the waiver of on-site drainage or detention facilities on the basis of the engineering feasibility of a combined facility.

(b) The Department of Water Resources shall be authorized to approve of alternative methods of stormwater detention based on appropriate engineering studies that do demonstrate equal or better performance in accordance with city storm water management practices. Approved alternatives may include well maintained and landscaped lakes that may be provided to act jointly as detention reservoirs and recreation facilities or aesthetic focal points within forest preserve areas, city or private parks, housing developments, shopping centers, and industrial parks. Other control methods to regulate the rate of stormwater discharge which may be acceptable include, but not [to] be limited to, detention on flat roofs, parking lots, streets, lawns, underground detention, and oversized storm drains with restricted outlets.

(c) Detention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these shall have planted vegetation and permanent ground cover on their borders. All on-site facilities shall be properly maintained by the owner in such a way that they do not become nuisances. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facility's operation. Private facilities are the perpetual responsibility of the landowner.

(d) No portion of any detention facility shall be located in any required buffer, street right- of-way or within a flood hazard area.

(e) The 100-year ponding limits of a detention facility shall not encroach upon a public street.

(f) An easement at least twenty-five (25) feet in width shall be required to provide access to the detention facility or other stormwater facility from a street.

(g) Every detention facility or surface impoundment shall be completely enclosed within a drainage easement. The drainage easement shall extend at least ten (10) feet beyond the ponding limits of the 100-year storm for surface impoundments.

(h) Aboveground detention facilities and surface impoundments shall be enclosed with a minimum four-foot high chain link fence and shall be equipped with a minimum four (4) foot wide access as necessary for

maintenance. Any fencing surrounding a stormwater pond that is visible from the public right-of-way shall be decorative in nature, or if chain link fencing is permitted it shall be black vinyl coated.

(i) All graded slopes on aboveground detention facilities or surface impoundments must contain a five (5) foot wide bench for every 20' in height.

Section 11-11-34. Timing of Installation

Construction of the stormwater system shall be initiated as part of the grading of the site. Storm water detention facilities shall be constructed prior to the installation of any other site improvements, and may be utilized under proper design as sedimentation basins during development. Installation of all other storm drainage pipes, culverts, headwalls, and ditches, shall be coordinated with the construction of streets and other site improvements, as appropriate.

CHAPTER 11-12 LAND DEVELOPMENT INSPECTION

Section 11-12-1. Applicability

This chapter shall apply to inspections processes during the land development permitting process as specified in Chapter 11-6. It shall be unlawful for any person, owner, or contractor to proceed with land development activities except as inspected for compliance in accordance with this chapter.

Section 11-12-2. Owner's Responsibilities

The owner shall be responsible for correcting any deficiencies identified by land development inspections prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Section 11-12-3. Request for Inspection

Requests for land development inspections shall be made by the owner or contractor to the applicable department at least 24 hours prior to when the inspection is needed. Inspections shall be made and passed prior to continuation of further activity or proceeding into new phases.

Section 11-12-4. Inspections Required

Inspections are required of each of the following phases of the land development process, as applicable to the actual work to be performed under the development permit:

(a) Land disturbance/soil erosion inspection. Prior to clearing, grubbing and/or land disturbance of the property or any activity undertaken pursuant to an approved land development permit, erosion and sedimentation control measures and devices for protection of trees and undisturbed areas shall be inspected and approved.

(b) Street grade and sub-grade preparation. After completing street grading but prior to trenching or continuation with sub-grade preparation, inspection and approval shall be required.

(c) Storm drainage. Installation of storm drainage pipe, detention, or other stormwater facilities shall be inspected and approved.

(d) Sub-grade of streets. After compaction and receipt of test reports, the sub-grade may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the Director of Public Works.

(e) Street curbing and gutter. Inspection shall be requested after the forms or string lines have been set. Street width and vertical and horizontal alignment may be spot checked.

(f) Street base. After receipt of test reports, the base may be string-lined for depth and crown. The street base may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the Director of Public Works.

(g) Paving. A Public Works inspector shall be on site during the paving process to check consistency, depth, and workmanship, as applicable. For asphalt paving, the temperature of the material will be monitored and the street will be cored after completion to check thickness and density. Satisfactory test results of the cores shall be delivered to Public Works Department prior to approval of a final subdivision plat or certificate of occupancy.

(h) Final. A final inspection of land development activity and improvements installed shall be required and approved by the applicable department, following submission and review of the as-built surveys required by this chapter.

Section 11-12-5. As-Built Surveys Required

Upon completion of land development activity or the installation of improvements as authorized by the land development permit and prior to final development inspection of public and private improvements, the owner shall submit record survey drawings showing "as-built" conditions of all public infrastructure improvements. The as-built survey drawings shall be certified and sealed by a registered land surveyor, subject to the tolerances of accuracy indicated in the survey certification.

Section 11-12-6. Specifications for As-Built Surveys

The as-built survey drawings shall show the location, vertical and horizontal alignment, and finished elevations of the following:

(a) Stormwater system.

(b) Sanitary sewer system.

(c) Water system.

(d) Public streets, including street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.

Section 11-12-7. Process for Approving As-Built Surveys

As-built survey drawings required by this chapter shall be submitted for review through the city's online permitting portal to the Community and Economic Development Department, which will route plans to other reviewing agencies as may be necessary.

Section 11-12-8. Final Land Development Inspection

Following submission and review of the as-built surveys, the Public Works Department shall conduct a final land development inspection of the project. The owner shall be responsible for correcting any deficiencies identified in the final development inspection prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Section 11-12-9. Maintenance Bond Required

Prior to approval of a final subdivision plat or issuance of a certificate of occupancy, a maintenance bond in a form acceptable to the Public Works Department shall be required for all public improvements shown on the as-built surveys required by this chapter. The bond will include maintenance of streets and stormwater facilities. The owner and subdivider shall be responsible for maintenance of all such public improvements for twenty-four (24) months from the date of issuance of the certificate of occupancy or final subdivision plat approval, as applicable.

Section 11-12-10. Amount of Maintenance Bond

The value of the maintenance bond shall be equal to 30% of the actual cost of construction of the public improvements shown on the as-built surveys or final plat if they are 100% complete. For those subdividers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the maintenance bond shall be equal to 30% of the completed work and, in addition, the subdivider shall provide a performance bond as described in Section 11-12-11. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined by the Director of Public Works.

Section 11-12-11. Amount of Performance Bond

For those subdividers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the performance bond shall be equal to 100% of the value of the wearing course and/or the sidewalks, and any other incomplete work as allowed by the Director of Public Works. The cost of construction shall be evidenced

by copies of contractor agreements or actual invoices paid, or as otherwise determined by the Director of Public Works.

CHAPTER 11-13 FINAL PLATS

Section 11-13-1. Final Plat Approval Required

The purpose of this chapter is to ensure compliance with the legal recording requirements of subdivisions and the proper installation of all required public or private improvements through the submittal of a final plat.

Section 11-13-2. Conformance with Preliminary Plat

The final subdivision plat shall conform substantially to the preliminary subdivision plat and may constitute only that portion of the approved preliminary subdivision plat that the owner proposes to record at any one time, provided that such portion conforms to the requirements of this article and Code.

Section 11-13-3. Responsibilities

The property owner is responsible for compliance with all requirements of this article and Code. Approval of a final subdivision plat and acceptance of the public improvements and dedications therein shall not relieve the owner of that responsibility.

Section 11-13-4. Installation of Improvements

Prior to submission of an application for final subdivision plat approval, all public and private improvements shall have been properly installed and completed in accordance with all requirements and standards of this article and Code (except traffic signs, street name signs, street striping, and signalization, the responsibility for which is with the City).

Section 11-13-5. Final Plat Specifications

A final plat shall be prepared by a registered land surveyor. In addition, if the subdivision involves public dedications of improvements, the final plat shall be approved and stamped by a professional engineer.

The final subdivision plat shall be drawn on an appropriate material and sheet size, and using minimum line weights and letter heights as required by state law for the recordation of maps and plats (O.C.G.A. 15-6-67, as amended), and as acceptable to the clerk of the superior court.

The final combination, retracement, and subdivision plat shall meet the following specifications:

(a) All data required by state law pertaining to the recordation of maps and plats (O.C.G.A. 15-6-67, as amended).

(b) Name of the subdivision and street names.

(c) Name of the former subdivision if any or all of the property has been previously subdivided.

(d) Location map.

(e) Reference to north point (magnetic, true north, or grid north).

(f) Graphic scale.

(g) Total acreage of the property being subdivided.

(h) Names of owners of record of all abutting land and deed/plat book references.

(i) Lot lines with dimensions to the 1/10 -foot, necessary internal angles, arcs, and chords and tangent or radii of rounded corner.

(j) Building setback lines (front, side, rear, and build-to lines) with dimensions as to length across each lot and distance from the street right-of-way.

(k) Lots or sites numbered in numerical order and blocks lettered alphabetically.

(l) Location, dimensions and purpose of all easements, including slope easements, if required, and any areas to be reserved, donated, or dedicated to public use.

(1) Utility easements. Whenever it is necessary or desirable to locate a utility line outside of the street right-of-way, the line shall be located in an easement dedicated to the city for such purpose. The easement shall be no less than 20 feet wide for water and 30 feet wide for sewer, or as otherwise acceptable to the Department of Water Resources.

(2) Water course and drainage easements. A publicly dedicated stormwater easement or drainage easement is to be provided along any drainage channel, stream, stormwater conveyance, detention facility or surface water impoundment within a development. The easement is to be substantially centered on the stream, stormwater channel or conveyance, or below-ground stormwater facility. The drainage easement should surround the detention facility or surface water impoundment. All easements shall be as described in this article or as otherwise acceptable to the city.

(m) The location and size of all utility lines.

(n) Designated tree save areas.

(o) A listing of the private covenants recorded with each lot or a statement of the location of such covenants, if applicable.

(p) The extent of any area of special flood hazard, as defined in this code, and any wetlands protection overlay zones/buffers and required stream buffers shall be delineated and labeled.

(q) Conditions of zoning, special use, or other approval by the city.

(r) Acreage to be dedicated to the public, or as privately maintained (common area, roads, etc.).

(s) A surveyor's certificate and owner's certificate, as provided in this paragraph. In addition, the original final subdivision plat drawing shall bear the original signature, in black ink, of the registered land surveyor placed across the surveyor's seal in order to be valid and recordable.

(t) Owners certificate, as provided in this code section, if applicable.

SURVEYOR'S CERTIFICATE

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist.

By (name): _____

Registered Georgia Land Surveyor No. _____

Address: _____

Telephone Number: _____

Date: _____

OWNER'S CERTIFICATE

State of Georgia

County of Hall

The undersigned certifies that he or she is the owner and subdivider of the land shown on this plat and that the plat and the public and private improvements contained therein or associated therewith meet all applicable

requirements and standards of the Gainesville Unified Land Development Code. The owner further acknowledges this plat and allotment to be his free act and deed, and dedicates to the Public forever all areas shown or indicated on this plat as public streets, public easements or other public use areas, and all water system, sewerage and other public improvements (hereinafter "facilities"). However, the City of Gainesville will not take ownership and maintenance of these facilities until such time as the undersigned petitions for and the Governing Body of the City of Gainesville accepts the dedication and acceptance of the facilities as provided in Section 11-13-11 of the Gainesville Unified Land Development Code and provided a maintenance bond as required in Section 11-12-9 and Section 11-12-10.

Owner's name: _____

Owner's address: _____

_____ Date_____

(Owner's signature)

(u) Plat recording and signature block for the Clerk of Superior Court.

Section 11-13-6. Final Plat Application Requirements

Applications for final plat approval shall include the following:

(a) Application. A properly completed application requesting review for project approval of the final plat.

(b) Copies of plats. An electronic copy of the final subdivision plat meeting final plat specifications of this chapter.

(c) Fees. Payment of all application and review fees, as established from time to time by the governing body.

(d) Payment for materials and installations. Payment to the city for materials and installation of traffic signs and street name signs. Payment of the cost of street striping or signalization, if required and not completed by the owner, shall also be included in the application.

(e) Financial guarantee of improvements. A maintenance bond, providing for the maintenance of all facilities required by this article and Code in the subdivision, shall be submitted which shall be valid for a period of 24 months following the date of approval of the final plat. If approved by the Director of Public Works, an alternative financial guarantee of improvements may be accepted, such as one of the following:

(1) An escrow of funds with the city.

(2) An escrow upon which the city can draw with a bank or financial institution in good standing authorized to do business in the state.

(3) An irrevocable letter of commitment or credit, from a bank in good standing authorized to do business in the state, upon which the city can draw.

(4) A performance bond for the benefit of the city upon which the city can collect.

(5) A certificate of deposit with assignment letter from the subdivider and a bank in good standing authorized to do business in the state.

Section 11-13-7. Review and Approval Process

The Director of Community and Economic Development, or their designee, is responsible for administering the review and approval process for final subdivision plats, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the Director of Community and Economic Development where additional specification is required.

(a) Review for completeness and application acceptance. The Community and Economic Development Department shall review the application for completeness at the time of submission. Incomplete applications will be returned to the applicant.

(b) Distribution and agency review of final plat. The Community and Economic Development Department shall route the plans to other city departments as may be appropriate, as well as any county departments such as Public Works for any development on a county road or Environmental Health if a septic system is proposed.

(c) Time period for completion of review. Within two weeks following distribution of the final plat, each reviewing agency shall provide comments to the applicant. Once all reviews have been completed and all comments received, revised plans can be provided by the applicant. Each reviewing agency will have one week to review and provide any additional comments on such revisions. This process will be repeated until all comments by reviewing agencies have been addressed. The Director of Community and Economic Development shall have sole authority to determine the applicability of any provisions of this Code to the final plat.

(d) Action. When the Community and Economic Development Department has determined that the final subdivision plat complies with the requirements, purpose and intent of this article and Code, it shall be approved and a copy of said approval shall be provided to the applicant.

Section 11-13-8. Recording of Final Plat

Once the final subdivision plat has been approval, it shall be recorded by the applicant with the clerk of the superior court. The applicant shall provide the Community and Economic Development Department with one electronic copy of the recorded final subdivision plat. Recordation of a final plat constitutes approval to begin the sale or transfer of subdivision lots. After recording, the reproducible copy may omit the stamp and seal of the registered land surveyor or the professional engineer, or both, upon request.

Section 11-13-9. Distribution of Recorded Final Plat

(a) The final plat is a source of essential information to tax officials, public safety officials, and utility officials, among others. The Director of Community and Economic Development or designee shall be responsible for ensuring that each applicable agency listed in this section receives a copy of the final recorded plat with addresses assigned by the addressing department, unless that function is done by another city department:

(1) The Hall County tax commissioner.

(2) The Hall County tax assessor.

(3) The Hall County environmental health department.

(4) The city police department.

(5) The city fire department.

(6) The city building inspector.

(7) The city Public Works Director.

(8) The city Water Resources Director.

(9) The Unites States Postal Service (local postmaster).

(b) At the discretion of the Director of Community and Economic Development, additional agencies or persons may be added to the above list.

Section 11-13-10. Amendments to Final Plat Approval

The application requirements and procedures for amending final plats shall be the same as for preliminary plat applications in Section 11-4-6, except that any amendment to an approved final plat must be recorded in accordance with Section 11-13-8.

Section 11-13-11. Dedication of Public Streets and Acceptance of Public Improvements

(a) Petition for public acceptance. At any date after 12 months has passed since the date of final plat approval, the subdivider may petition in writing to the Director of Public Works for the governing body to accept public streets and other dedications, in whole or in part, within the subdivision. Said improvements shall not be accepted for maintenance until approved by the governing body.

(b) Completion of improvements. If construction of any required public improvements was authorized by the Director of Public Works to be deferred at the time of final plat approval, said work shall have been completed during the one-year maintenance period for the subdivision.

(c) Final inspection. The Public Works Department shall conduct a final acceptance inspection of the public improvements and facilities within 30 days of receipt of the letter requesting acceptance.

(d) Correction of deficiencies. The owner shall correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements.

(e) Public acceptance. Upon certification by the Public Works Director that the public improvements and facilities depicted on the as-built surveys are in conformance with the specifications of this article and the Code and are in good repair, the governing body shall determine whether to accept the public improvements and facilities into perpetual maintenance by the city.

(f) Warranty deed. Subdivision streets and rights-of-way and other lands and facilities to be dedicated to the public shall be accepted by the city only upon the delivery to the governing body of a general warranty deed conveying fee simple title of such rights-of-way and lands. The warranty deed shall be accompanied by a certificate of title and a tax transfer form addressed to the governing body, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so.

(g) Release of bond. Upon certification by the Public Works Director that the public improvements and facilities depicted on the final plat are in conformance with the specifications of this article and the Code and are in good repair, and at any date after 24 months has passed since the date of final plat approval, the governing body may release the maintenance bond.

CHAPTER 11-14 CONSERVATION SUBDIVISIONS

Section 11-14-1. Purpose

The purpose of conservation subdivisions is to provide flexibility of design to promote sustainable development of land in portions of the City of Gainesville already zoned for residential use. It permits the clustering of houses and structures on less environmentally sensitive lands which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development. Appropriate use of Conservation Subdivisions can also:

(a) Provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure,

(b) Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat, and

(c) Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

Section 11-14-2. Applicability

This conservation subdivision option is available in the Residential Zoning Districts as a use by right. The applicant shall comply with all other provisions of the Unified Land Development Code and all other applicable laws, except those that are incompatible with the provisions contained herein.

Section 11-14-3. Housing Density Determination

The maximum number of lots in the conservation subdivision shall be determined by either of the following two methods, at the discretion of the Director of Community and Economic Development:

(a) Calculation. The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:

(1) Slopes over 25% of at least 5,000 square feet contiguous area;

(2) The 100-year administrative floodplain;

(3) Bodies of open water over 5,000 square feet contiguous area;

(4) Wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; or,

(5) Anticipated right-of-way needs for roads and utilities.

(b) Yield Plan. The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.

Section 11-14-4. Standards to Determine Open Space

(a) The minimum restricted open space shall comprise at least 40% of the gross tract area.

(b) The following are considered primary conservation areas and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this chapter:

(1) The administrative 100-year floodplain;

(2) A total stream buffer protection zone of at least 75 feet in width along all streams which includes a 50-foot stream protection buffer and a 25-foot stream buffer setback;

(3) Slopes above 25% of at least 5,000 square feet contiguous area; Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;

(4) Populations of endangered or threatened species, or habitat for such species; and

(5) Archaeological sites, cemeteries and burial grounds.

(c) The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible.

(1) Important historic sites;

(2) Existing healthy, native forests of at least 1 acre of contiguous area;

(3) Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;

(4) Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;

(5) Prime agricultural lands of at least 5 acres of contiguous area; and

(6) Existing trails that connect the tract to neighboring areas.

(d) Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the 40% minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.

(e) At least 75% of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.

(f) The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space.

Section 11-14-5. Permitted Uses of Open Space

Uses of open space may include the following:

(a) Conservation of natural, archeological or historical resources;

(b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(c) Walking or bicycle trails, provided they are constructed of porous paving materials;

(d) Passive recreation areas;

(e) Active recreation areas, provided that they are limited to no more than 10% of the total open space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space;

(f) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;

(g) Nonstructural stormwater management practices;

(h) Easements for drainage, access, and underground utility lines; or

(i) Other conservation-oriented uses compatible with the purposes of this Unified Land Development Code.

Section 11-14-6. Prohibited Uses of Open Space

Uses of open space shall not include the following:

(a) Golf courses;

(b) Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;

(c) Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,

(d) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

Section 11-14-7. Ownership and Management of Open Space

(a) Ownership of open space. The applicant must identify the owner of the open space who is responsible for maintaining the open space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the owner.

(b) Maintenance of open space. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, City of Gainesville may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties. Should the Homeowner's Association go defunct responsibility falls to the actual homeowners.

Section 11-14-8. Legal Instrument for Permanent Protection

Open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

(a) A permanent conservation easement in favor of either: a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or a governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the City of Gainesville, then a third right of enforcement favoring City of Gainesville shall be included in the easement;

(b) A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,

(c) An equivalent legal tool that provides permanent protection, if approved by the City of Gainesville.

The instrument for permanent protection shall include clear restrictions on the use of open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the open space.

Section 11-14-9. Conservation Subdivision Application Requirements

(a) Site Analysis Map Required. Concurrent with the submission of a site concept plan, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed open space will meet the requirements of this article. The preliminary site plan shall include the following features:

(1) Property boundaries;

(2) All streams, rivers, lakes, wetlands and other hydrologic features;

(3) Topographic contours of no less than 10-foot intervals;

(4) All Primary and Secondary Conservation Areas labeled by type, as described in this Chapter;

(5) General vegetation characteristics;

(6) General soil types;

(7) The planned location of protected open space;

(8) Existing roads and structures; and,

(9) Potential connections with existing greenspace and trails.

(b) Open Space Management Plan Required. An open space management plan, as described in this chapter, shall be prepared and submitted prior to the issuance of a land development permit. Said plan shall:

(1) Allocate responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

(2) Estimate the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outline the means by which such funding will be obtained or provided;

(3) Provide that any changes to the Plan be approved by the City Council; and

(4) Provide for enforcement of the management plan.

(c) Instrument of Permanent Protection Required. An instrument of permanent protection, as described by this Chapter, shall be placed on the open space concurrent with the issuance of a land disturbance permit.

(d) Other Requirements. The applicant shall adhere to all other applicable requirements of the underlying zoning.

CHAPTER 11-15 CORRIDOR MAP

Section 11-15-1. Purpose and Intent

The purposes of a corridor map are to implement the city's comprehensive plan, especially transportation and thoroughfare plans, by reserving land needed for future transportation facilities designated by a plan. The corridor map is intended to provide a basis for coordinating the provision of transportation facilities with new development by designating corridors where the construction and improvement of transportation facilities is expected, to restrict the construction or expansion of permanent structures in the intended right-of-way of planned transportation facilities as indicated on a corridor map, and to protect the rights of landowners whose land is reserved on a corridor map.

Section 11-15-2. Definitions

(a) Corridor map: A map adopted by a Governing Body which designates land to be reserved for the construction of future or improvement of existing transportation or linear park and recreation facilities (e.g., greenways). The corridor map establishes the width and termini of corridors as necessary to allow flexibility in planning the design of a transportation facility or linear park and recreation facility.

(b) Reserved land: Land shown on the corridor map as reserved for future public use.

(c) Transportation facilities: Streets, highways, bikeways, sidewalks, and trails.

Section 11-15-3. Findings and Corridor Map Adoption

The Governing Body reserves the right to adopt, after public hearing, a corridor map that is consistent in all respects with the comprehensive plan or plans of participating municipalities. Prior to adoption of a corridor map, the following actions shall be taken to ensure procedural due process:

(a) Prior to public hearing, if the proposed corridor map includes land intended for transportation facilities to be constructed or improved by the city, a copy of the proposed corridor map shall be submitted to the chief executive officer of the city who shall be allowed 30 days to indicate in writing any reserved land for transportation facilities for which they are responsible that they want removed from the corridor map, in which case such reserved land shall be removed from the corridor map.

(b) At least 15 days before the public hearing, the Director of Community and Economic Development shall notify the public of the date, time, place, and nature of the public hearing by publication in a newspaper of general circulation in the territory of the city.

(c) The Director of Community and Economic Development shall notify all owners of parcels of land that include proposed reserved land of the date, time, place, and nature of the public hearing by mail at least 15 days before the public hearing.

(d) The Governing Body shall hold a public hearing(s) at the date, time, and place advertised, and afford all interested individuals the opportunity to be heard concerning the proposed corridor map.

Section 11-15-4. General Provisions

The Director of Community and Economic Development shall not issue any permit pertaining to zoning or land development on land regulated by this Chapter except pursuant to the procedures and in compliance with this Chapter. This Chapter does not forbid or restrict the use of any reserved land that does not constitute the development of that land, nor does this Chapter forbid or restrict development on the unreserved portion of any reserved land.

Section 11-15-5. Land Development Permit Required to Develop Reserved Land

An owner of reserved land who proposes to develop reserved land shall apply to Community and Economic Development Department for a land development permit. It shall be unlawful to carry out development upon land shown as reserved on the corridor map without securing a development permit as required by this Code.

Section 11-15-6. Public Hearing and Notice on Development Permit

Upon receiving an application for a land development permit involving reserved land as shown on an adopted corridor map, the Director of Community and Economic Development shall arrange for the application to be scheduled for public hearing before the Governing Body. The applicant (and the governmental unit, if land is reserved for a public use by a governmental unit other than the local government) shall be notified in writing of the date, time, and place of the hearing, by written mail, personal service, or facsimile, at least 15 days prior to the public hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in a newspaper of general circulation in the City at least 15 days prior to the public hearing. The applicant shall, at the hearing, have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application, as shall any governmental unit or interested individual that has an interest in the application.

Section 11-15-7. Action

Following the public hearing, the Governing Body may take one of the following actions:

(a) Approve the land development permit as proposed, with or without conditions, modify the mapped corridor to remove all or part of the reserved land from the mapped corridor, and issue with or without conditions the land development permit authorizing development on the land removed from the mapped corridor.

(b) Modify the proposed land development permit application and issue it for development as modified, with or without conditions, if the development can reasonably be accomplished on the subject parcel without encroaching on the reserved land.

(c) Delay action on the development permit for a defined period of time not to exceed three months for the purpose of any of the following: negotiating with the property owner for the purchase of all or a part of the reserved land by the governmental agency responsible for the transportation facilities; acquiring the reserved land voluntarily; acquiring an easement over the reserved land that prevents the property owner from building on the reserved land; taking the reserved land through eminent domain and the payment of just compensation.

Section 11-15-8. Authority to Acquire Reserved Land for Public Use

After consideration of the development permit by the Governing Body, the Governing Body or other governmental unit responsible for the transportation facilities may, but shall not be obligated to, negotiate for the voluntary dedication of the land, enter into option to purchase, or it may initiate condemnation proceedings subject to applicable state laws and use its powers of eminent domain.

Section 11-15-9. Final Action on the Land Development Permit

If the Governing Body delays action on the development permit as provided by this Chapter and the governmental agency responsible for transportation facilities on the reserved land fails to arrange for the legal acquisition of all or a part of the reserved land within the specified time period which shall not exceed three months, then the Governing Body shall approve the land development permit, with or without conditions, or in the absence of such approval, the land development permit shall be deemed approved as submitted.

ARTICLE 12 ENVIRONMENT

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CHAPTER 12-1 SOIL, EROSION, SEDIMENTATION AND POLLUTION CONTROL

Section 12-1-1. Definitions

The following terms shall have the meanings in this Article 12 as prescribed below:

Available head. The depth of water that is present at the entrance to a pipe during a 100- year storm.

Best management practices (BMPs). These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted, a copy of which is on file in the clerk of the city.

Board. Board of Natural Resources.

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

Certified personnel. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Commission. The Georgia Soil and Water Conservation Commission (GSWCC).

Construction. Any building or erection of a structure or preparation of a property for same.

CPESC. Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

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

Cutting. The removal of any soil or other solid material from a natural ground surface.

Department. The Georgia Department of Natural Resources (DNR).

Design head. The depth of water at the entrance to a pipe that was used in design to force a rate of flow through the pipe needed in the design.

Design professional. A professional licensed by the State of Georgia in the field of. engineering, architecture, landscape architecture, forestry, geology, or land surveying, or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professional shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Director. The Director of the Environmental Protection Division or an authorized representative.

District. The Hall County Soil and Water Conservation District.

Division. The environmental protection division (EPD) of the department of natural resources.

Drainage. A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; most commonly applied to surface water.

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

Drainage system. The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, detention facilities and the storm sewer system.

Elevation. The vertical height or heights above a datum plane which for purposes of this chapter shall be the mean sea level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

EPD. The environmental protection division of the state department of natural resources.

EPD director. The director of the environmental protection division or an authorized representative.

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

Erosion, Sedimentation and Pollution control plan. A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, as amended, that includes minimum protections at least as stringent as the state general permit, best management practices, and requirements in Section 12-1-3 of this chapter.

Excavation. The mechanical removal of earth material. Also known as “cut.”

Extended detention. The detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

Facility/site outfall. The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Fill. A portion of land surface to which soil or other solid material has been added; the depth above the original ground or an excavation.

Filling. The placement of any soil or other solid material, either organic or inorganic, on a natural ground surface or excavation.

Final stabilization. All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

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

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

Grading permit. Authorization necessary but limited to the initiation and conduct of a land-disturbing activity on a property. For purposes of this Code, a land development permit issued pursuant to Chapter 11-6 shall constitute approval of the grading permit required by this chapter.

Greenway. An area along the course of any state waters to be maintained in an undisturbed and natural condition.

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

Hydrologic soil group (HSG). A natural resource conservation service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Larger common plan of development or sale. A contiguous area where multiple separate and distinct construction activities are occurring under one (1) plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Live detention. The quantity of water capable of being effectively contained by a stormwater detention facility for a specified period of time.

Local issuing authority. The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

Metropolitan River Protection Act (MRPA). A state law referenced as O.C.G.A. § 12-5-440 et. seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Manual for Erosion and Sediment Control in Georgia. A publication of the same name published by the state soil and water conservation commission, and as amended or supplemented from time to time, a copy of which is on file in the office of the clerk of the city.

Natural drainage. Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

Natural ground surface. The ground surface in its original state before any grading, excavation or filling.

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

NOI. A notice of intent form provided by EPD for coverage under the state general permit.

NOT. A notice of termination form provided by EPD to terminate coverage under the state general permit.

One-hundred-year flood. A 100-year frequency flood that has the probability of occurring once every 100 years and thus has a 1% chance of occurring each year.

One-hundred-year flood plain. A land area adjoining a river, stream, watercourse or lake that has a probability of being flooded up to and including the 100-year flood.

Operator. The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

Outfall. The location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into the receiving water.

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

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

Phase or phased. Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

Properly designed. Designed in accordance with the design requirements and specifications contained in the Manual for Erosion and Sediment Control in Georgia (Manual) published by the Georgia Soil and Water Conservation

Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

Qualified personnel. Any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19, as amended.

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

Riparian. Belonging or related to the bank of a river, stream, lake, pond or impoundment.

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

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

Runoff rate coefficient. The numerical factor which, when multiplied with the average slope for a particular site, will give the release rate of water from that site.

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

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

Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

Soil and water conservation district approved plan. An erosion and sediment control plan approved in writing by the Hall County Soil and Water Conservation District.

Soils. The upper layer of earth that can be dug or plowed; the loose surface material of the earth in which vegetation normally grows.

Stabilization. The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

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

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

Static head. The depth of water at the entrance to a culvert when the depth is greater than the diameter of the pipe.

Stream. A stream is defined as beginning at:

(a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or

(b) A point in the stream channel with a drainage area of 25 acres or more; or

(c) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Director of Community and Economic Development may require field studies to verify the existence of a stream.

Stream bank. The sloping land that contains the stream channel and the normal flows of the stream.

Stream protection buffer setback. An additional setback, measured horizontally, beyond the undisturbed stream protection buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

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

Stream protection buffer. The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, as measured horizontally, which facilitates the protection of water quality and aquatic habitat.

Stream protection area or protection area. The combined areas of all required stream protection buffers and setbacks applicable to such stream.

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

Ten-year, 25-year and 100-year storms. Rainfall events having a probability of occurrence once every 10, 25 or 100 years, respectively, or a 10%, 4% or 1% chance of occurring each year, respectively.

Trout streams. All streams or portions of streams within the watershed as designated by the wildlife resources division of the state department of natural resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, as amended, in the Rules and Regulations for Water Quality Control Chapter 391-3-6 at www.epd.georgia.gov , as amended. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Utilities. All public, private, and municipal, above or below ground, infrastructure systems providing water, stormwater, sanitary sewer, natural gas, electricity, telecommunications, cable television or internet, or any other service controlled by the State public services commission.

Vegetation. All plant growth, such as trees, shrubs, mosses and grasses.

Vegetative erosion and sedimentation control measures. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

(a) Permanent seeding, sprigging or planting, producing long-term vegetative cover;

(b) Temporary seeding, producing short-term vegetative cover; or

(c) Sodding, covering areas with a turf of perennial sod-forming grass.

(d) Such measures can be found in the Manual for Erosion and Sediment Control in Georgia.

Watercourse. Any natural or artificial surface water conveyance, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently; a natural watercourse has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

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

Section 12-1-2. Exemptions

(a) Generally. This chapter shall apply to any land-disturbing activity undertaken by any person on any land except for those uses specifically identified in this chapter.

Where this chapter requires compliance with Chapter 12-3, the city shall enforce compliance with the minimum requirements as if a land development permit had been issued and any violations of said minimum requirements shall be subject to the same penalties as violations by land development permit holders.

(b) Mining and Quarrying. Surface mining, as same is defined in O.C.G.A. § 12-4-72, as amended, entitled "The Georgia Surface Mining Act of 1968," and granite quarrying and land clearing for such quarrying are exempt from compliance with this chapter.

(c) Minor Activities. Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs, maintenance work fences, and other related activities, which result in minor soil erosion are exempt from compliance with this chapter.

(d) Slopes. Single-family detached lots and two-family lots that are cleared or disturbed on slopes with a grade less than 15%;

(e) Single-family Detached Lots and Two-Family Lots. Single-family detached lots and two-family lots that contain less than 1 acre of disturbed area; however, development of any such lot shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6, as amended; and this paragraph:

For single-family and two-family residence construction covered by the provisions of this paragraph, there shall be a stream protection buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act, as amended. In any such stream protection buffer zone, no land disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the stream protection buffer zone shall be at least 50 horizontal feet, and no variance to a smaller stream protection buffer shall be granted. For secondary trout waters, the stream protection buffer zone shall be at least 50 horizontal feet, but the EPD director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the stream protection buffer shall be at least 25 horizontal feet, and no variance to a smaller stream protection buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6, as amended, and the stream protection buffer zones provided by this paragraph shall be enforced by the City.

(f) Agriculture. Exempt from the requirements of this chapter are those agricultural operations defined in O.C.G.A. § 1-3-3, as amended, "definitions," to include raising, harvesting, or storing of products of the field or orchard; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chicken, hens, and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs, and apiarian products and farm buildings and farm ponds.

(g) Forestry Land Management Practices. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a stream protection buffer, as established in Section 12-3-3, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices.

(h) NRCS Projects. Any project carried out under the technical supervision of the natural resources conservation service of the United States Department of Agriculture shall be exempt from compliance with this chapter.

(i) Small Projects. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of

any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further that nothing contained herein shall prevent the city from regulating any such project which is not specifically exempted by this chapter.

(j) State Projects and State/Local Road Projects. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the state department of transportation, the state highway authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the state department of transportation or the state road and tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1, as amended; except where the state department of transportation, the state highway authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the city, the city shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6, as amended, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders.

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

Section 12-1-3. Minimum Requirements for Erosion and Sedimentation Control

(a) General Provisions.

(1) Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by Section 12-1-2 shall contain provisions for application of soil erosion and sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion and sediment control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of this chapter.

(2) The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this chapter and the NPDES general permit.

(b) Best Management Practices.

(1) Best management practices as set forth in this section and Section 12-3-3 shall be required for all land-disturbing activities unless specifically exempted by Section 12-1-2.

(2) Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the EPD director or to any other allegation of noncompliance with this section or any substantially similar terms contained in a land development permit for the discharge of stormwater. Issued pursuant to subsection (f) of O.C.G.A. 12-5-30, as amended, the "Georgia Water Quality Control Act."

(3) As used in this section, the terms "proper design" and "properly designed" mean in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia specified in O.C.G.A.12-7-6 subsection (b), as amended.

(4) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbing permit issued by the city or of any state general permit issued by the division pursuant to subsection (f) of O.C.G.A. 12-5-30, as amended, the "Georgia Water Quality Control Act," for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than 10 nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the EPD director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.

(5) Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbing permit issued by the city or of any state general permit issued by the division pursuant to subsection (f) of Code section 12-5-30, as amended, the "Georgia Water Quality Control Act," for each day on which such failure occurs.

(6) The EPD director may require, in accordance with regulations adopted by the board of natural resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

(c) Additional Minimum Requirements. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et seq., as amended, for the purpose of governing land-disturbing activities shall require, as minimum protections at least as stringent as the state general permit, and best management practices, including soil conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

(1) Stripping of vegetation, re-grading and other development activities shall be conducted in a manner to minimize erosion.

(2) Cut-fill operations must be kept to a minimum.

(3) Development plans must conform to topography and soil type to create the lowest practicable erosion potential.

(4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.

(5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.

(6) Disturbed soil shall be stabilized as quickly as practicable.

(7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.

(8) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.

(9) To the extent necessary, sediment in run-off water must be trapped using debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements O.C.G.A. 12-7-1 et seq., as amended.

(10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.

(11) Cuts and fills may not endanger adjoining property.

(12) Fills may not encroach upon natural watercourses or constructed channels in a manner which adversely affect other property owners.

(13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.

(14) No public streets, drainage systems or private property shall be restricted from normal use or operation by the scattering of earth, rock, vegetation and other debris resulting from the land disturbing activity. The permittee shall be responsible for clearing, unclogging and cleaning any such facility or lands daily.

(15) Land-disturbing activity plans for erosion sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this section.

(16) Land-disturbing activities shall not be conducted within the 100-year flood plain except in compliance with Chapter 12-2.

(17) Construction site operators are required to control waste at the construction site, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.

(d) Stream Protection Buffers. Except as provided in Section 12-3-5, there is established a 25-foot stream protection buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal streams flow or wave action, except where the EPD director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the EPD director pursuant to O.C.G.A. § 12-2-8 as amended, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification, and are implemented; or along any ephemeral stream. As used in the provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, the stream protection buffers of at least twenty-five feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act," as amended, shall remain in force unless a variance is granted by the EPD director as provided in this paragraph. The following requirements shall apply to any such stream protection buffer:

(1) No land-disturbing activities shall be conducted within a stream protection buffer and a stream protection buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a stream protection buffer may be thinned or trimmed of vegetation as long as a protective

vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a stream protection buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

(2) The stream protection buffer shall not apply to the following land-disturbing activities provided that they occur at an angle, as measured form the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the stream protection buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

i. Stream crossings for water lines; or

ii. Stream crossings for sewer lines.

(e) Stream Protection Buffers Along Trout Streams. There is established a 50-foot stream protection buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, as amended, the "Georgia Water Quality Control Act," except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot stream protection buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the stream protection buffer requirements for any adjacent trout streams. The EPD director may grant a variance from such stream protection buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such stream protection buffer:

(1) No land-disturbing activities shall be conducted within a stream protection buffer and a stream protection buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a stream protection buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a stream protection buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

(2) The stream protection buffer shall not apply to the following land-disturbing activities provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the stream protection buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

i. Stream crossings for water lines; or

ii. Stream crossings for sewer lines.

(f) Provisions Regarding Land Disturbance Activity and the Disturbance of Stream Protection Buffers.

(1) This section shall not be construed as preventing the application of other requirements of this Code which require larger buffers along property lines than specified in this chapter (see Table 4- and Table 5-, which may apply). Furthermore, nothing contained in O.C.G.A. 12-7-1 et seq., as amended, shall prevent the city from adopting rules and regulations, ordinances, or resolutions which contain stream protection buffer requirements that exceed the minimum requirements in this chapter.

(2) See Chapter 12-3 for provisions regarding disturbance within stream protection buffers.

(3) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.

(g) Maintenance of Control Measures. Maintenance of all soil erosion and sediment control measures, whether temporary or permanent, are the responsibility of the owner.

(h) Manual Adopted by Reference. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia* or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this chapter.

Section 12-1-4. Application Permit/Process.

(a) General. The property owner, developer and designated planners and engineers shall design and review before submittal, the general development plans. The city shall review the tract to be developed and the area surrounding it. The staff of the city shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood management ordinance, this Chapter, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the city. However, the owner and/or operator are the only parties who may obtain a permit.

(b) Application requirements.

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the city to perform such activity and providing a copy of NOI submitted to EPD if applicable.

(2) The application for a permit shall be submitted to the city and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in this chapter. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of this chapter will be met. Applications for a permit will not be accepted unless accompanied by seven copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10, as amended.

(3) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, as amended, provided that such fees shall not exceed eighty dollars ($80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. Half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17, as amended, shall be submitted in full to the division.

(4) Immediately upon receipt of an application and plan for a permit, the city shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of the district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the city. No permit will be issued unless the plan has been approved by the district, and any variances required by this chapter have been obtained, all fees have been paid, and bonding, if required, has been obtained. Such review will not be required if the city and the district have entered into an agreement which allows the city to conduct such review and approval of the plan without referring the application and plan to the district. The city with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the city with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

(5) If a permit applicant has had two or more violations of previous permits, this chapter section, or the Erosion and Sedimentation Act, as amended within three years prior to the date of filing the application under consideration, the city may deny the permit application.

(6) The city may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars ($3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the city with respect to alleged permit violations.

(c) Plan requirements.

(1) Plans must be prepared to meet the minimum requirements as contained in this chapter, or through the use of more stringent alternate design criteria which conform to sound conservation and engineering practices. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and stakeholder advisory board created pursuant to O.C.G.A. 12-7-20, as amended.

(2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted. Erosion, sedimentation and pollution control plans shall include:

i. Narrative or notes, and other information. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

ii. Description of existing land use at project site and description of proposed project.

iii. Name, address, and phone number of the property owner.

iv. Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.

v. Size of project, or phase under construction, in acres.

vi. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."

vii. Stormwater and sedimentation management systems-storage capacity, hydrologic study, calculations including off-site draining areas and other information as may be needed to satisfy the requirements of Article 11 and Article 12.

viii. Location of erosion and sediment control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, chapter 6, and meeting the requirements of Article 12. Practices may include, but are not limited to:

A. Construction exit.

B. Sediment barrier.

C. Sediment basin.

D. Grassed waterway (open swale).

E. Storm drain outlet protection.

F. A plan for temporary and permanent vegetative and structural erosion and sediment control measures.

ix. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for year-round seeding.

x. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

xi. Maintenance statement. "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."

xii. A description of the sediment control program and sediment control practices.

xiii. An adequate description of general topographic and soil conditions of the tract as available from the Hall County Soil and Water Conservation District.

xiv. A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.

xv. Any additional requirement established by the commission.

(d) Permits.

(1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the city of a completed application as well as all required approved plans and reports, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

(2) No permit shall be issued by the city unless the erosion, sedimentation and pollution control plan has been approved by the district and the city has affirmatively determined that the plan is in compliance with this chapter, any variances required by this chapter are obtained, bonding requirements, if necessary, are met and all ordinances and rules and regulations in effect within the

jurisdictional boundaries of the city are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

(3) Any land-disturbing activities by the city shall be subject to the same requirements of this chapter, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the city.

(4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.

(5) The permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or that person's successor in the title is not in compliance with the approved erosion, sedimentation and pollution control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to that person as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

(6) The city may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7(f)(1), as amended.

Section 12-1-5. Inspection and Enforcement

(a) The city will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the city shall regulate primary, secondary, and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this chapter, a written notice to comply shall be served upon that person. The notice shall set forth the necessary measures to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, that person shall be deemed in violation of this chapter.

(b) The city shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(c) No person shall refuse entry or access to any authorized representative or agent of the city, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

Section 12-1-6. Penalties and Incentives

(a) Failure to obtain a permit for land-disturbing activity. If any person commences any land disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the city.

(b) Stop-work orders.

(1) For the first and second violations of the provisions of this chapter, the EPD director or the city shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the EPD director or the city shall issue a stop-work order requiring that land-¬disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the EPD director or the city shall issue an immediate stop-work order in lieu of a warning;

(2) For a third and each subsequent violation, the EPD director or the city shall issue an immediate stop-work order; and

(3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

(4) When a violation in the form of taking action without a permit, failure to maintain a stream protection buffer, or significant amounts of sediment, as determined by city or by the EPD director, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the city or by the EPD director. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth necessary measures to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, may be deemed to have forfeited his performance bond for erosion, sedimentation and pollution control, if required to post one. The city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) Any person who violates any provision of this chapter, or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the city or the EPD director issued as provided in this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in any City Charter or ordinance to the contrary, the municipal court of the city shall be authorized to impose a penalty not to exceed two thousand five hundred dollars ($2,500.00) for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations, each day during which violation or failure or refusal to comply continues shall be a separate violation.

Section 12-1-7. Education and Certification

(a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land¬-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20, as amended.

(b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said

entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.

(d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, as amended, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A 12-7-19, as amended, and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Section 12-1-8. Administrative Appeal Judicial Review

(a) Administrative remedies. The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the administrative hearing officer within 30 days after receipt by the city of written notice of appeal.

(b) Judicial review. Any person, aggrieved by a decision or order of the city, after exhausting his administrative remedies, shall have the right to appeal by writ of certiorari to the Superior Court of Hall County.

Section 12-1-9. Validity and Liability

(a) Liability.

(1) Neither the approval of a plan under the provisions of this chapter, nor the compliance with provisions of this chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the city or district for damage to any person or property.

(2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of standards provided for in this chapter or the terms of the permit.

(3) No provision of this chapter shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder, as amended, or pollute any waters of the state as defined thereby.

CHAPTER 12-2 FLOODPLAIN MANAGEMENT

Section 12-2-1. General Provisions

(a) Findings of Fact.

(1) The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) Flood hazard areas can serve important stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas.

(3) Effective floodplain management and flood hazard protection activities can:

i. Protect human life and health;

ii. Minimize damage to private property;

iii. Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and

iv. Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

(4) These flood losses are increased by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damage.

(5) Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Gainesville, Georgia, does enact this ordinance and establishes this set of floodplain management and flood hazard reduction provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

(b) Statement of Purpose. It is the purpose of this chapter to protect, maintain, and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood- waters or which may increase flood hazards to other lands; and

(6) Protect the stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(c) Objectives. The objectives of this section are to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruption;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(7) Insure that potential home buyers are notified that property is in a flood area.

(d) Applicability. This chapter shall apply to all areas of special flood hazard within the city, i.e. floodplain and flood prone areas as defined herein at or below the base flood elevation or the future conditions flood elevation, whichever is more restrictive (including A and AE on the FIRM), and all new or substantial improvement residential units, all subdivisions, non-residential structures, manufactured home, recreational vehicles, and utilities located within these areas. In addition, all streams with a drainage area of one hundred (100) acres of more have an area of special flood hazard.

(e) Adoption by Reference. The following are adopted by reference:

(1) The current effective flood insurance study (FIS) with accompanying maps and other supporting data and any revision thereto. For those land areas acquired through annexation, the current effective FIS and data for Hall County, Georgia, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.

(2) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 1% (100-year) floodplain and flood prone areas include:

i. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the city; and

ii. Any base flood study authored by a registered professional engineer in the state which has been prepared by FEMA approved methodology and approved by the department of water resources.

(3) Other studies which may be relied upon for the establishment of the future conditions flood elevation or delineation of the future conditions floodplain and flood prone areas include:

i. Any flood or flood-related study conducted by the United States Corps of Engineers, the United States Geological Survey, or any other local, State or Federal agency applicable to the city; or

ii. Any future conditions flood study authored by a registered professional engineer in the state which has been prepared by FEMA approved methodology and approved by the department of water resources.

(4) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the department of water resources.

(f) Interpretation. In the interpretation and application of this section, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the City Council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(g) Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or the county or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(h) Compatibility with Other Regulations. This chapter is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

(i) Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

Section 12-2-2. Administration and Permitting

(a) The Director of Water Resources, or their designee, is hereby appointed floodplain administrator to administer and implement the provisions of this chapter. The duties of the floodplain administrator regarding any land within an area of special flood hazard shall include, but not be limited to:

(1) Review all development applications and permits to assure that the requirements of this ordinance have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but not limited to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334;

(3) When base flood elevation data or floodway data have not been provided, then the floodplain administrator shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to meet the provisions of this chapter;

(4) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;

(5) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;

(6) When flood-proofing is utilized for a structure, the floodplain administrator shall obtain certification of design criteria from a registered professional engineer or architect;

(7) Notify affected adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps;

(9) All records pertaining to the provisions of this chapter shall be maintained in the office of the floodplain administrator and shall be open for public inspection;

(10) Coordinate all FIRM revisions with the GA DNR and FEMA; and

(11) Review variance applications and make recommendations to the Department of Community and Economic Development.

(b) Permit Application Requirements.

(1) No owner or developer shall perform any development activities on a site where an area of special flood hazard or area of future-conditions flood hazard is located without first meeting the requirements of this ordinance prior to commencing the proposed activity.

(2) Unless specifically excluded by this ordinance, any landowner or developer desiring a permit for a development activity shall submit to the city a land disturbance permit application on a form provided by the city for that purpose.

(3) No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this ordinance.

(c) Floodplain Management and Flood Damage Prevention Plan. No application for a land development project within any area of special flood hazard will be approved unless it includes a floodplain management/flood damage prevention plan (floodplain management plan). This plan shall be in accordance with the following criteria:

(1) This plan must be submitted with the stamp and signature of a professional engineer (PE) licensed in the state, who will verify that all designs are consistent with the requirements of this chapter.

(2) The approved floodplain management plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and building activities are not in strict accordance with approved plans.

(3) The floodplain management plan shall include, but not be limited to, the following: plans drawn to scale of the site in question, existing and proposed elevations of the area in question and the nature, location, and dimensions of existing or proposed structures, proposed grading plan, earthen fill placement, amount and location of excavation, storage of materials or equipment, and drainage/stormwater management facilities.

(d) Specific Requirements for Plans. The following information is required as a part of floodplain management/flood damage prevention plans:

(1) Site plan drawn to scale, including but not limited to:

i. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;

ii. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;

iii. Proposed locations of water supply, sanitary sewer, and utilities;

iv. The base flood elevation and future conditions flood elevation;

v. Boundaries of the base flood floodplain and future conditions floodplain;

vi. If applicable, the location of the floodway;

vii. Proposed locations of drainage and stormwater management facilities;

viii. Proposed grading plan; and

ix. Certification of the above by a registered professional engineer or surveyor.

(2) Building and foundation design detail, including but not limited to:

i. Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;

ii. For enclosures below the base flood elevation or future conditions flood elevations, location and total net area of foundation openings as required in this chapter.

iii. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

iv. Certification that any proposed non-residential flood proofed structure meets the criteria of this chapter;

(3) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development project; and

(4) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre and post development conditions base flood elevations, future conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS;

(5) Copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file; and

(6) All appropriate certifications required under this ordinance.

The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

(e) Construction Stage Submittal Requirements.

(1) For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the floodplain administrator a certified as-built elevation certificate or floodproofing certificate for non-residential construction including the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for non-

residential structures, said certification shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same using the FEMA floodproofing certificate. This certification shall also include the design and operation/maintenance plan to assure continued viability of the floodproofing measures.

(2) Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The floodplain administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

(f) Variances. A request for variance may be submitted by an applicant who has been denied a permit for development activity or by an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this chapter. A request for variance shall be submitted through the Director of Community and Economic Development. All such requests shall be heard and decided in accordance with the procedures set forth in Chapter 18-6 and Chapter 20-3. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(1) Any person adversely affected by any decision of the Director of Community and Economic Development or the floodplain administrator shall have the right to appeal such decision to the Planning and Appeals Board as established by the city council with procedures to be published in writing by the planning and appeals board. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(2) Any person aggrieved by the decision of the Planning and Appeals Board may appeal such decision to a court of competent jurisdiction, as provided in O.C.G.A. § 5-4-1.

(3) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.

(4) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(6) In reviewing such requests, the city and the planning and appeals board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this chapter.

(7) Conditions for variances:

i. A variance shall be issued only when the requirements of the applicable chapter(s) have been met and there is:

A. A finding of good and sufficient cause;

B. A determination that failure to grant the variance would result in exceptional hardship; and

C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.

ii. The provisions of this chapter are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

iii. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property, and that such costs may be as high or higher than $25 for each $100 of insurance coverage provided.

iv. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(8) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the city and the Planning and Appeals Board shall deem necessary to the consideration of the request.

(9) Upon consideration of the factors listed above and the purposes of this chapter, the city and the Planning and Appeals Board may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this chapter.

(10) Variances shall not be issued "after the fact."

(g) Enforcement. Enforcement of this chapter shall be as outlined in Chapter 20-2 and may include:

(1) Notice of Violation. If the Department of Water Resources determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this chapter, such department shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain the following:

i. The name and address of the owner or the applicant or the responsible person;

ii. The address or other description of the site upon which the violation is occurring;

iii. A statement specifying the nature of the violation;

iv. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this chapter and the date for the completion of such remedial action;

v. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and

vi. A statement that the determination of violation may be appealed to the Department of Water Resources by filing a written notice of appeal within 30 days after the notice of violation.

(2) Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Department of Water Resources or Community and Economic Development shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than 10 days (except, that in the event the violation

constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Department of Water Resources may take any one or more of the following actions or impose any one or more of the following penalties:

i. Administrative Penalties.

A. *Stop work order*. The Department of Water Resources or Department of Community and Economic Development may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

B. *Withhold certificate of occupancy*. The Department of Community and Economic Development may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

C. *Suspension, revocation or modification of permit*. The Department of Community and Economic Development may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Department of Water Resources may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

D. *Civil penalties*. In the event the applicant or otherwise responsible person fails to take the remedial measures set for in the notice of violation or otherwise fails to cure the violations described therein within 10 days (except, that in the event the violation constitutes and immediate danger to public health or public safety, 24-hour notice shall be sufficient) after the city has taken one or more of the administrative actions described above, the city may impose a penalty not to exceed one thousand dollars ($1,000.00) (depending on the severity or the violation) for each day the violation remains unremedied after receipt of the notice of violation.

ii. Criminal penalties. For intentional and flagrant violations or this chapter, the city may issue a citation to the applicant or other responsible person, requiring such person to appear in the city municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for 60 days or both. Each act of violation and each day upon which a violation shall occur shall constitute a separate offense.

Section 12-2-3. Standards for Development

(a) Definition of Floodplain Boundaries.

(1) Studied "A" zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.

(2) For special flood hazards areas and flood prone areas, the future conditions flood elevations shall be determined by a registered professional engineer using FEMA approved methodology approved by the floodplain administrator.

(3) The boundaries or limits of the floodplain shall be within one-half (0.5) feet vertical accuracy on the site plan containing existing topographic information.

(b) Definition of Floodway Boundaries.

(1) The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage of 100 acres or greater the floodway shall be provided by the city. If unavailable then it shall be determined by a registered professional engineer using FEMA approved methodology approved by the floodplain administrator.

(2) The boundaries or limits of the floodway shall be shown on the development or stormwater site plan containing existing topographic information, as applicable.

(c) General Standards.

(1) No development shall be allowed within any area of special flood hazard or area of future conditions flood hazard that could result in any of the following:

i. Raising the base flood elevation or future conditions flood elevation equal to or more than one one-hundredth (0.01) foot;

ii. Reducing the base flood or future conditions flood storage capacity.

iii. Changing the flow characteristics of the waters of the base flood or future conditions flood as they pass both the upstream and the downstream boundaries of the property; or

iv. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.

(2) Any development within any area of special flood hazard or area of future-conditions flood hazard allowed under Title 9Section 12-2-3(c)(1) shall also meet the following conditions:

i. Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel.

ii. All cut areas are to be graded to a slope of no less than 2%.

iii. In all cases effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.

iv. Verification of no-rise conditions (0.01) foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Title 9Section 12-2-3(d).

v. All proposed development shall have public utilities and facilities, such as sewer, gas, electrical and water system, located and constructed to minimize flood damage.

vi. Any significant changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to

approval by the floodplain administrator using the community consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within 6 months of the completion of construction, the applicant shall submit as built surveys which demonstrate general conformance to the approved designs as submitted in the CLOMR application. A letter of map revision (LOMR) or letter of map amendment (LOMA) must be issued before the final plat can be approved or a certificate of occupancy can be issued. Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1" = 1000'. The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

(d) Engineering Study Requirements for Floodplain Encroachments. An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb the future conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and floodways. This study shall be prepared by a currently registered professional engineer in the state and made a part of the application for a permit. This information shall be submitted to and approved by the floodplain administrator prior to the approval of any permit which would authorize the disturbance of land located within the floodplain. Such study shall include:

(1) Description of the extent to which any watercourse or floodplain will be altered or relocated because of the proposed development;

(2) Step-backwater analysis, using a FEMA approved methodology approved by the Department of Water Resources. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood and future conditions flood profiles;

(3) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that the base flood floodplain and future conditions floodplain storage capacity would not be diminished by the development;

(4) If changes to the base flood elevation or future conditions flood elevation are proposed, profiles of the channel showing the existing and proposed base and future conditions flood elevations must be provided; and

(5) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

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

(1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the base floodway, except when required for the construction of bridges, culverts, roadways and utilities, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and

(2) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the floodplain administrator until an affirmative conditional letter of map revision (CLOMR) or conditional letter of map

amendment (CLOMA), whichever is applicable, is issued by FEMA, or a no-rise certification is approved by department of water resources.

(f) Maintenance Requirements. The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. The floodplain administrator may direct the property owner, at no cost to the city, to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the department of water resources.

Section 12-2-4. Flood Hazard Reduction

(a) General Standards for Flood Hazard Reduction. In all areas of special flood hazard the following provisions apply:

(1) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the floodplain unless all requirements of this chapter have been met;

(2) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(3) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage; and

(4) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.

(b) Elevated Buildings.

(1) All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed as an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(2) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

ii. The bottom of all openings shall be no higher than one foot above grade; and

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

(3) So as not to violate the "lowest floor" criteria of this chapter, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(c) Service Facilities. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located 3 feet above the base flood elevation or 1 foot above the future conditions flood elevation, whichever is higher, to prevent water from entering or accumulating within the components during conditions of flooding.

(d) Manufactured Homes.

(1) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of Title 9Section 12-2-3(b), (c), and (d) have been met. If all of the requirements of these sections have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation or 1 foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (b)(2) above.

(2) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:

i. The lowest floor of the manufactured home is elevated no lower than three feet above the level of the base flood elevation, or one foot above the future-conditions flood elevation, whichever is higher; or

ii. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

(3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

(e) Water and Sewer Facilities and Other Utilities.

(1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(3) Decentralized wastewater system shall be located outside the floodplain and constructed to avoid impairment to them or contamination from them during flooding.

(4) Other public utilities such as gas and electric systems shall be located and constructed to avoid impairment to them, or public safety hazards from them, during flooding.

(f) Nonconformities.

(1) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this chapter, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

(2) If the proposed development is located in multiple flood zones, or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.

(3) When only a portion of a proposed structure is located within a flood zone or the future conditions floodplain, the entire structure shall meet the requirements of this ordinance; and

(4) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reasonably safe from flooding:

i. All such proposals shall be consistent with the need to minimize flood damage within the flood-prone area;

ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and

iii. Adequate drainage shall be provided to reduce exposure to flood hazards.

(g) Residential Buildings Within Future Conditions Floodplains.

(1) New construction shall have the lowest floor, including any basement level, elevated no lower than 3 feet above the base flood elevation adjacent to the building or one foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this chapter for elevated buildings.

(2) Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation adjacent to the building or one foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this chapter for elevated buildings.

(h) Non-Residential Buildings Within the Future Conditions Floodplain.

(1) New construction shall have the lowest floor, including any basement level, elevated no lower than 1 foot above the base flood elevation or at least as high as the future conditions flood elevation. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Title 9Section 12-2-4(b)(2)iii.

i. In lieu of the above, non-residential new construction may be authorized by the floodplain administrator to be constructed if it is determined that the structure shall be flood-proofed. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to 1 foot above the base flood elevation, or at least as high as the future conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the floodplain administrator using the FEMA floodproofing certificate along with the design and operation/maintenance plan.

(2) Substantial improvement of any structure located in A1-30, AE, or AH zones, may be authorized by the floodplain administrator to be elevated or flood- proofed. Substantial improvements shall have the lowest floor, including basement elevated no lower than 1 foot above the base flood elevation or at least as high as the future conditions flood elevation, whichever is higher. Should solid perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Title 9Section 12-2-4(b)(2)iii.

i. In lieu of the above, substantial improvements may be constructed if it is determined that the structure will be flood-proofed. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, or at least as high as the future conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the floodplain administrator using the FEMA floodproofing certificate along with the design and operation/maintenance plan.

(i) Accessory Structures and Facilities in Future Conditions Floodplains. Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the future conditions floodplain shall be designed and constructed to pass all floodwater in a manner consistent with this chapter and be anchored to prevent flotation, collapse or lateral movement of the structure.

(j) Standards for Recreational Vehicles in Floodplains. All recreational vehicles placed on sites must either:

(1) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(2) The recreational vehicle must meet all the requirements for "Residential Buildings— Substantial Improvements", including the anchoring and elevation requirements above.

(k) Buildings and Structures Adjacent to the Future Conditions Floodplain.

(1) Residential buildings. For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least 3 feet above the level of the base flood (100-year) elevation or 1 foot higher than the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Title 9Section 12-2-4(b).

(2) Non-residential buildings. For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least 1 foot above the level of the base flood (100-year) elevation or at least as high as the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Title 9Section 12-2-4(b). Non-residential buildings may be floodproofed in lieu of elevation.

(l) Building Standards for Residential Single Lot Development for Streams Without Established Base Flood Elevations and/or Floodway (A-Zones).

(1) Located within the areas of special flood hazard, where streams exist but no base flood data have been provided (A-zones) or where base flood data have been provided but a floodway has not been delineated, the floodplain administrator shall review and reasonably utilize any available scientific or historic base flood elevation or regulatory flood elevation and floodway data, or future conditions flood elevation data available from a federal, state, or other source, in order to administer the provisions and standards of this section.

(2) If sufficient data are not available from these sources, the following provisions shall apply:

i. No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.

ii. In special flood hazard areas without base flood or future conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than 3 feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the provisions of this chapter.

(m) Building Standards for Areas of Shallow Flooding (AO-Zones).

(1) Areas of special flood hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one to 3 feet above ground, with no clearly defined channel.

(2) In these areas the following provisions apply:

i. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (foot above the flood depth number in feet specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least 3 feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for "elevated buildings." The applicant's or owner's engineer shall certify to the floodplain administrator that the lowest floor elevation level and the record shall become a permanent part of the permit file;

ii. New construction and substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and shall provide such certification to the department of water resources using the FEMA floodproofing certificate along with the design and operation/maintenance plan; and

iii. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(n) Standards for Subdivisions.

(1) All subdivision proposals shall identify the special flood hazard area and areas of future conditions flood hazard therein and provide base flood and future conditions flood elevation data future conditions flood elevation data;

(2) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future conditions floodplain such that encroachments into the future conditions floodplain for residential structures will not be required;

(3) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood or future conditions flood elevation, the lowest flood and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator;

(4) All subdivision proposals shall be consistent with the need to minimize flood damage;

(5) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and,

(6) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

CHAPTER 12-3 STREAM PROTECTION BUFFERS

Section 12-3-1. Findings

Whereas the city finds that buffers adjacent to streams provide numerous benefits including:

(a) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources

(b) Removing pollutants delivered in urban stormwater

(c) Reducing erosion and controlling sedimentation

(d) Protecting and stabilizing stream banks

(e) Providing for infiltration of stormwater runoff

(f) Maintaining base flow of streams

(g) Contributing organic matter that is a source of food and energy for the aquatic ecosystem

(h) Providing tree canopy to shade streams and promote desirable aquatic habitat

(i) Providing riparian wildlife habitat

(j) Furnishing scenic value and recreational opportunity

(k) Providing opportunities for the protection and restoration of greenspace

Section 12-3-2. Purposes

This chapter sets standards for stream buffers to:

(a) Protect the public health, safety, environment and general welfare;

(b) Minimize public and private losses due to erosion, siltation and water pollution;

(c) Maintain stream water quality by creating and maintaining buffer zones along the streams of the city for the protection of water resources; and,

(d) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Section 12-3-3. Applicability

This chapter shall apply to all land development activity on property containing a stream protection area as defined in this ULDC. After the effective date of these provisions as originally adopted, it shall apply to new subdividing and platting activities. Any land development activity within a stream protection buffer established hereunder or any impervious cover within a stream buffer setback established hereunder is prohibited unless a variance is granted. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

Section 12-3-4. Compatibility with Other Buffer Regulations and Requirements

This chapter is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

Section 12-3-5. Exemptions

The following specific activities are exempt from this chapter. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

(a) Activities for the purpose of building one of the following:

(1) A stream crossing by a driveway, transportation route or utility line;

(2) Public water supply intake or public wastewater outfall structures;

(3) Intrusions necessary to provide access to a property;

(4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;

(5) Unpaved foot trails and paths;

(6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.

(b) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited above.

(c) Land development activities within a right-of-way existing at the time this chapter takes effect or approved under the terms of this chapter.

(d) Within an easement of any utility existing at the time this chapter as originally adopted takes effect or approved under the terms of this Code, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.

(e) Emergency work necessary to preserve life or property. However, when emergency work is performed under this chapter, the person performing it shall report such work to the director of water resources on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the director of water resources to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

(f) Forestry and silviculture activities on land zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.

Section 12-3-6. Stream Protection Buffer and Stream Buffer Setback Requirements

All land development activity subject to this chapter shall meet the following requirements:

(a) An undisturbed natural vegetative stream protection buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. The land forming the bank is also considered part of the buffer for purposes of this chapter.

(b) An additional stream buffer setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative stream protection buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within this setback.

(c) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

Section 12-3-7. Stream Protection Buffer Variances

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

(a) Where a parcel was platted prior to the effective date of this chapter as originally adopted, and its shape, topography or other existing physical condition prevents land development consistent with this chapter, and the Director of Water Resources finds and determines that the requirements of this Code prohibit the otherwise lawful use of the property by the owner, the Board of Planning and Appeals of the city may grant a variance from the buffer and setback requirements of this chapter, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

(b) Except as provided in subsection (a), the Board of Planning and Appeals of the city shall grant no variance from any provision of this chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the board. The city shall give public notice of each such public hearing in a local newspaper of general circulation and shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of- way.

Section 12-3-8. Stream Protection Variance Buffer Criteria

(a) Variances will be considered only in the following cases:

(1) When a property's shape, topography, or other physical conditions existing at the time of the adoption of this chapter prevents land development unless a stream buffer protection variance is granted; or

(2) Unusual circumstances when strict adherence to the minimal buffer requirements in this chapter would create an extreme hardship.

(b) Variances will not be considered when, following original adoption of this chapter, actions of any property owner of a given property have created conditions of a hardship on that property.

(c) The following factors will be considered in determining whether to issue a stream protection buffer variance:

(1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

(2) The locations of all streams on the property, including along property boundaries;

(3) The location and extent of the proposed buffer or setback intrusion; and

(4) Whether alternative designs are possible which require less intrusion or no intrusion;

(5) The long-term and construction water-quality impacts of the proposed variance; and

(6) Whether issuance of the variance is at least as protective of natural resources and the environment.

Section 12-3-9. Variance Application Requirements

In addition to the requirements for variance applications specified generally by this Code, a request to vary the provisions of this chapter shall at minimum include the following information:

(a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;

(b) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

(c) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;

(d) Documentation of unusual hardship should the buffer be maintained;

(e) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;

(f) A calculation of the total area and length of the proposed intrusion;

(g) A stormwater management site plan, if applicable; and

(h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

Section 12-3-10. Stream Protection Buffer Zone Development Review Requirements

Any permit applications for property requiring stream protection buffers and setbacks must include the following:

(a) A site plan showing:

(1) The location of all streams on the property;

(2) Limits of required stream buffers and setbacks on the property;

(3) Buffer zone topography with contour lines at no greater than five-foot contour intervals;

(4) Delineation of forested and open areas in the buffer zone; and

(5) Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;

(b) A description of all proposed land development within the buffer and setback; and

(c) Any other documentation that the director of water resources may reasonably deem necessary for review of the application and to ensure that the stream protection buffer zone is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Section 12-3-11. Responsibility

Neither the issuance of a development permit nor compliance with the conditions thereof, nor compliance with the provisions of this chapter, shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the city, its officers or employees, for injury or damage to persons or property.

Section 12-3-12. Inspection of Stream Protection Buffer Zone

(a) The Director of Water Resources, or their designee, may cause inspections of the work in the stream protection buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the Director, or their representative, in making such inspections. The city shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this section, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the stream protection buffer zone.

(b) No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

Section 12-3-13. Violations, Enforcement and Penalties

Any action or inaction which violates the provisions of this chapter, or the requirements of an approved site plan or permit, will be subject to the enforcement actions outlined in this chapter or in Chapter 20-2. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties shall not prevent such equitable relief.

Section 12-3-14. Notice of Violation

If the Director of Water Resources determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this chapter, the director shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this chapter without having first secured the appropriate permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

(a) The name and address of the owner or the applicant or the responsible person;

(b) The address or other description of the site upon which the violation is occurring;

(c) A statement specifying the nature of the violation;

(d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this chapter and the date for the completion of such remedial action;

(e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,

(f) A statement that the determination of violation may be appealed to the director of water resources by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

Section 12-3-15. Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director of Water Resources shall first notify the applicant or other responsible person in writing of the Director's intended action, and shall provide a reasonable opportunity, of not less than 10 days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Director of Water Resources may take any one or more of the following actions or impose any one or more of the following penalties:

(a) Stop Work Order. The Director of Water Resources may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.

(b) Withhold Certificate of Occupancy. The Director of Water Resources may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(c) Suspension, Revocation or Modification of Permit. The Director of Water Resources may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the director of water resources may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(d) Civil Penalties. In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 days (or such greater period as the director of water resources shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) after the Director of Water Resources has taken one or more of the actions described above, the Director may impose a penalty not to exceed $1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(e) Criminal Penalties. For intentional and flagrant violations of this chapter, the Director of Water Resources may issue a citation to the applicant or other responsible person, requiring such person to appear in the municipal court of the city to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 12-3-16. Administrative Appeal and Judicial Review

(a) Administrative Appeal. Any person aggrieved by a decision or order of the Director of Water Resources, may appeal in writing within 30 days after the issuance of such decision or order to the city clerk's office and shall be entitled to a hearing before the designated administrative hearing officer of the city within 30 days of receipt of the written appeal.

(b) Judicial Review. Any person aggrieved by a decision or order of the Director of Water Resources, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Hall County.

Section 12-3-17. Severability

If any section, subsection, paragraph, clause, phrase or provision of this chapter shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this chapter.

ARTICLE 13 SITE DEVELOPMENT

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CHAPTER 13-1 BUFFERS AND SCREENING

Section 13-1-1. Buffer Required

(a) Buffers, as defined by this ULDC, shall be required as specified in Table 13-1 and 13-2. Buffers may also be required for individual uses as specified in Article 9.

(b) Trees retained or replanted within buffers required by this chapter shall not be included in calculations of compliance with minimum tree unit requirements established in Chapter 13-3.

Table 13-1: Minimum Buffer Requirements for Residential Districts

Buffer Requirement	R-I-A	R-I	N-C	R-II	R-O
Adjacent to a R-I-A, R-I, or N-C district	-	-	-	20 ft. min.	20 ft. min.

Table 13-2: Minimum Buffer Requirements for Nonresidential Districts

Buffer Requirement	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Adjacent to a residential district	25 ft. min.	25 ft. min.	10 ft. min.	25 ft. min.	35 ft. min.	50 ft. min.	100 ft. min.
Adjacent to all other districts	-	-	-	-	-	10 ft. min.	10 ft. min.

Section 13-1-2. Screening Required

(a) All buffers shall provide screening as defined by this ULDC. Where another provision of this ULDC requires screening in conflict with this Chapter the more stringent regulations shall apply.

(b) Minimum required screening shall consist of the following unless stated otherwise:

(1) A natural buffer utilizing existing vegetation; or

(2) A structural buffer providing an opaque visual screen to a height of at least 6 feet; or

(3) Any combination of existing and replanted vegetation which can reasonably be expected to create an opaque visual screen at least 6 feet high within two growing seasons.

(c) Service and Dumpster Areas.

All such areas shall be screened as follows:

(1) Trash and recycling collection, dumpsters, and other similar service areas must be screened from view from all public rights-of-way by either:

i. Locating the service area or dumpster within a building; or

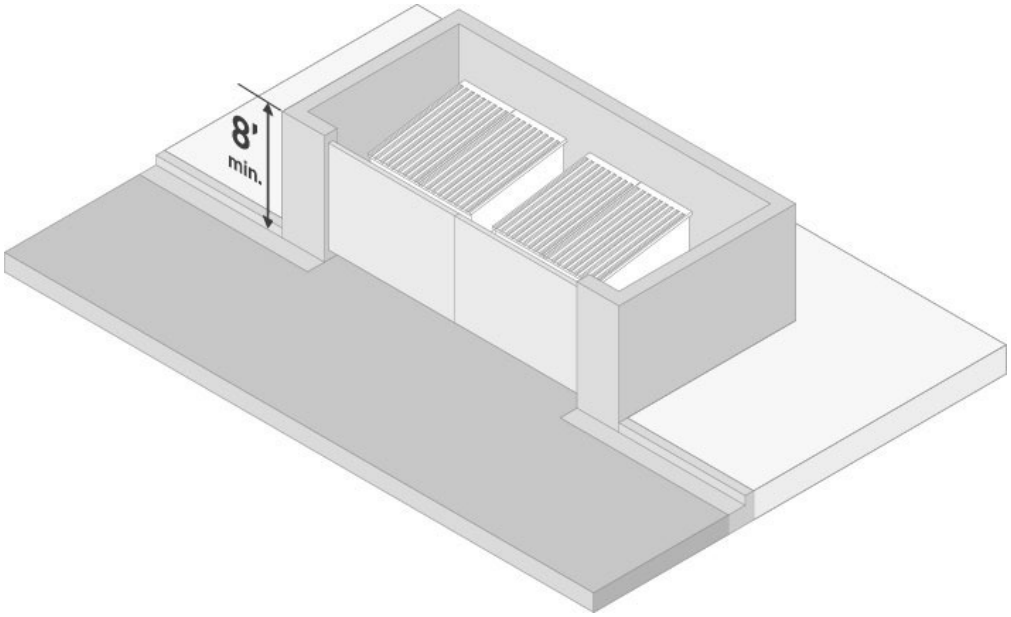
ii. Locating the service area or dumpster to the rear of a building; or

iii. Screening the dumpster on three sides by a wall at least 8 feet in height and on the 4th side by a solid gate at least 8 feet in height. Screening shall be 100% opaque and constructed of solid wood; decorative blocks; brick; stone; cast-stone; or split-faced block.

A. The gate must be opaque, self-locking, and maintained in good working order.

(2) Access to all service and dumpster areas shall be limited to the hours of 6:00 a.m. to 9:00 p.m., unless an emergency situation warrants access to these areas.

(3) Avoid locating storm drains in trash and recycling collection areas to reduce likelihood of stormwater pollution.



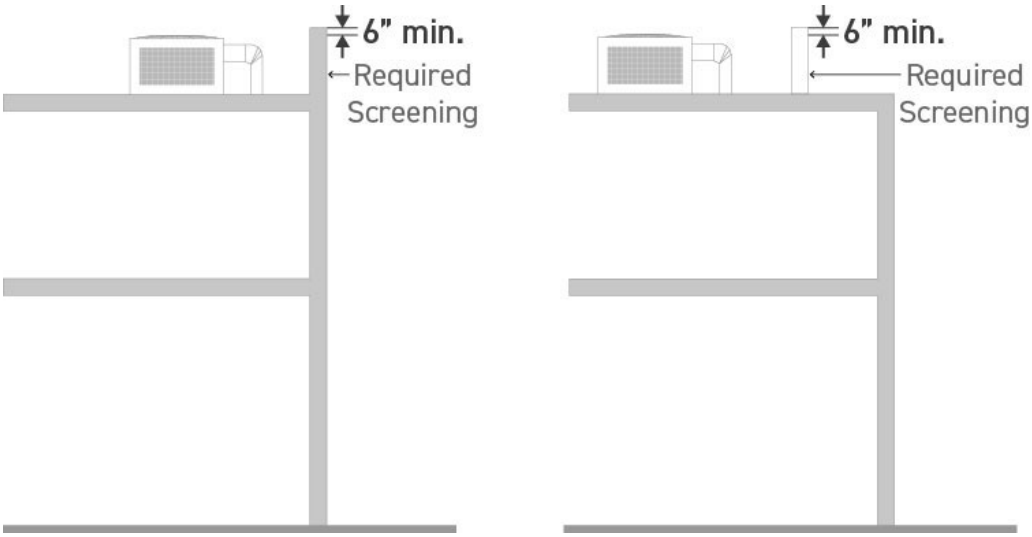
(d) Roof-mounted Equipment.

All such areas shall be screened as follows:

(1) Rooftop mechanical equipment such as exhaust fans, rooftop mechanical units, and satellite dishes must be screened from ground-level view on all sides. A reduction in screening may be granted by administrative variance when the Director finds that the mechanical equipment is otherwise not visible from ground level.

(2) New buildings must provide a parapet wall or other architectural element that is compatible with the principal building in terms of texture, quality, material, and color that is at least 6 inches higher than the topmost point of the screened equipment.

(3) For buildings with no or low parapet walls, roof-mounted equipment must be screened from ground-level view on all sides by an opaque screen compatible with the principal building in terms of texture, quality, material, and color.



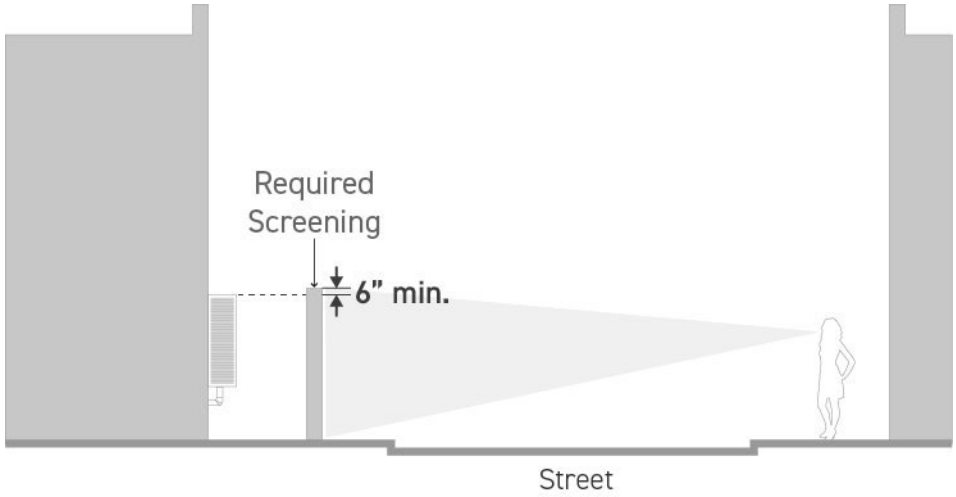
(e) Wall-mounted Equipment.

Wall-mounted equipment more than 2 feet in height or length must conform to the following:

(1) Wall-mounted equipment located on any surface that is visible from a public street must be fully screened by an opaque wall or fence that is compatible with the principal building in terms of texture, quality, material, and color.

(2) Screening must be at least 6 inches higher than the equipment being screened.

(3) The screening element must be at least 75% opaque.

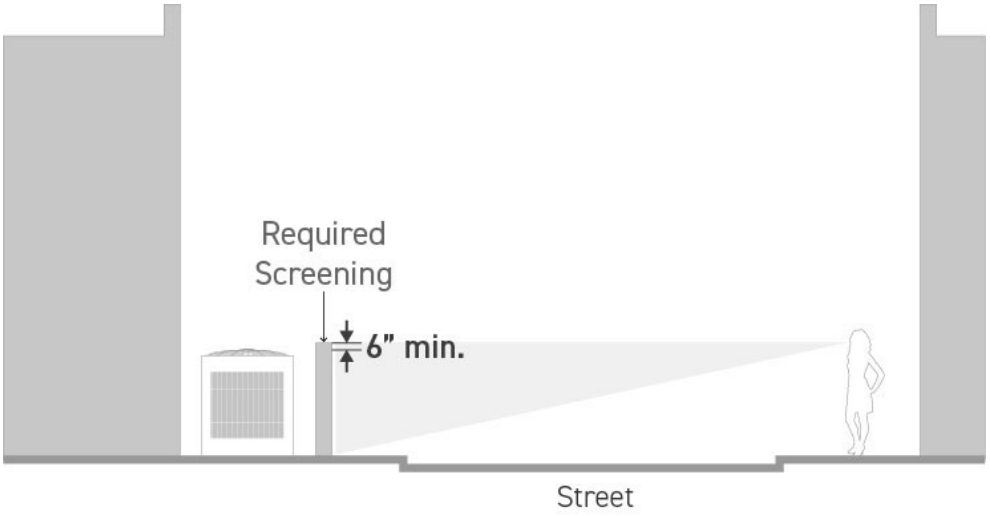


(f) Ground-mounted Equipment.

Ground mounted equipment more than 2 feet in height or length must conform to the following:

(1) Ground-mounted mechanical equipment and satellite dishes that are visible from a public street must be fully screened by an opaque wall or fence that is compatible with the principal building in terms of texture, quality, material, and color.

(2) Screening must be at least 6 inches higher than the equipment being screened.



Section 13-1-3. Buffer Materials

There are three types of buffers permitted by this ULDC: natural buffers, replanted buffers, and structural buffers.

(a) Natural Buffers shall consist of natural, undisturbed vegetation. Replanting of a buffer is required where sparsely vegetated or where screening as required by this article cannot be provided with existing natural vegetation. This is the intent whether the term "natural" buffer or "natural, undisturbed" buffer is used.

(1) Where disturbance of a required buffer is permitted by this chapter, it must be replanted to a standard acceptable to provide screening as defined by this article. Natural buffers must contain deciduous or perennial vegetation suitable to local growing conditions that will provide a six-foot high opaque visual screen during all seasons of the year.

(b) Replanted Buffers shall consist of a combination of evergreen and deciduous trees and shrubs native to the region. Compliance must be demonstrated on plans submitted for a land disturbance permit as required by Chapter 11-6.

(1) All species of trees shall be of a type permitted in Section 13-3-19.

i. Required deciduous trees shall be a minimum of three-inch caliper and evergreen trees shall be at least 6 feet in height at time of planting and achieve a height of 20 feet at maturity.

(2) All shrubs planted shall be of a type as listed in Table 13-5 and must be a minimum of 3 feet in height at time of planting.

(3) Plantings in buffers shall be limited to 33% of a single tree species. Calculations must be listed on the tree protection plan.

(c) Structural Buffers may be installed as an alternative to a natural buffer subject to the following criteria. Compliance must be demonstrated on plans submitted for a land development permit as required by Chapter 11-6.

(1) Structural buffers shall be vegetated throughout the minimum area required for the buffer on both sides of any fences or walls and upon any earthen berms.

(2) All earthen berms shall have a maximum side slope of two horizontal to one vertical. Earthen berms shall not be constructed within the dripline of any existing trees that will remain on the property.

(3) Trees shall be located or planted within any structural buffer at a density of no less than one tree for each 20 feet of buffer length or portion thereof. New trees shall be a minimum of three-inch caliper upon planting and may be clustered for decorative effect following professional landscaping standards for spacing, location, and design.

(4) Fences and freestanding walls shall present a finished and decorative appearance to the abutting property. Shrubs, ground covers, or other vegetation shall be provided between the fence or wall and any adjacent right-of-way to provide a decorative effect.

(5) Fences used in buffers must be made of rot-resistant material or protected from deterioration with water-proofing material.

Section 13-1-4. Buffer Encroachments

(a) No driveways, parking areas, patios, stormwater detention facilities, or any other structures or accessory uses may be located within a buffer, except for structural buffers.

(b) Underground utilities may be permitted to cross a buffer if the screening standards of this article will be subsequently achieved to the satisfaction of the Director of Community and Economic Development and as permitted by the Director of Water Resources.

(c) Required vehicular access may be allowed through a buffer as a condition of zoning, special use or planned unit development approval by the governing body; or through an administrative variance as provided for in Chapter 20-3.

Section 13-1-5. Waiver of Required Buffer

(a) The Governing Body or Planning and Appeals Board may, at the time of application for rezoning or special use, waive a buffer requirement of this Code upon determination that such that a buffer is not necessary for the protection of the public health, safety and general welfare.

(b) The Director may waive the buffer requirements of this ULDC when it is determined that the intent of this Chapter can be met without the installation of a buffer.

Section 13-1-6. Reduction of Natural Buffer by Installing Structural Buffer

If a structural buffer is provided that creates an opaque screen to a height of at least 8 feet, the required buffer width may be reduced by up to 50%.

Section 13-1-7. Maintenance of Buffers and Structural Buffers

(a) Buffers required by this Code shall be maintained by the owner of the property where the buffer is located.

(b) Dying, diseased or dead vegetation shall be removed, provided minimal disturbance occurs. Any removed vegetation must be replaced where necessary to satisfy buffer requirements of this ULDC.

Section 13-1-8. Stream Protection Buffers

In addition to the buffers specified in this chapter, properties shall comply with the stream protection buffer requirements specified in Chapter 12-3, as applicable.

Section 13-1-9. Fences and Walls

(a) Location. Fences and walls should be located along any side or rear common property line. No fence or freestanding wall shall be erected in a manner that obstructs visibility at street intersections. Retaining walls and subdivision entrance monuments shall not be placed within the right-of-way of a local street. All fences visible from the public right-of-way shall have their appearance softened with landscaping as approved by the Director.

(b) Height. Fences or freestanding walls constructed between the build-to-line and the front lot line in a front yard of a residential lot shall not exceed 4 feet in height; provided. Subdivision or project identification monuments at the entrance to a subdivision or development and wall or fence extensions thereof, where permitted, shall not exceed 8 feet in height and columns shall not exceed 10 feet in height. If a fence or freestanding wall, other than a retaining wall or necessary fence encompassing an outdoor recreational court is to be placed in a yard, it shall be no more than 8 feet in height. Fences or walls on properties with nonresidential uses shall not exceed 8 feet in height and columns shall not exceed 10 feet in height in a front, side or rear yard.

(c) Composition. Fences and walls shall present a finished and attractive surface on both sides and must be maintained in a structurally sound condition and in good repair. Fences must be free from loose or rotting materials and must have braces and supports attached or fastened in accordance with common building practices. Exposed concrete block, tires, scrap metal, sheet metal, plastic/fiberglass sheeting, vinyl siding or fabric, plywood, pallet material, junk or other discarded items are not allowed as fence or wall materials. In all residential districts, fences and walls erected within the front yard shall be constructed of brick, stone, wood, stucco, wrought iron, split rail, vinyl plastic or chain-link coated with black vinyl. All fences visible from the public right-of-way shall have their appearance softened with landscaping as approved by the Director.

(d) Gates. Gates for vehicular access shall not be located closer than 25 feet to a public street or road right-of-way to ensure safe ingress and egress.

(e) Exemptions. These requirements shall not apply to temporary fencing erected within a construction site. All such temporary fencing shall be approved by the Building Official upon issuance of a building permit and shall be removed upon completion of construction.

CHAPTER 13-2 LANDSCAPING

Section 13-2-1. Landscape Strips Required

Landscape strips shall be required along rights-of-way for residential and nonresidential uses as specified in Table 4-1 and Table 5-1.

Table 13-3: Minimum Landscape Strip Requirements for Residential Districts

Landscape Strip Requirement	R-I-A	R-I	R-II	N-C	R-O
Adjacent to street, nonresidential uses	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.
Adjacent to an existing street for multi-family developments and subdivisions of 5 or more lots which result in the creation of a new street	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.

Table 13-4: Minimum Landscape Strip Requirements for Nonresidential Districts

Landscape Strip Requirement	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Adjacent to street, non-single family uses	10 ft. min.	10 ft. min.	-	10 ft. min.	10 ft. min.	20 ft. min.	20 ft. min.
Adjacent to an existing street for subdivisions of 5 or more lots which result in the creation of a new street	20 ft. min.	20 ft. min.	-	-	-	-	-

Section 13-2-2. Minimum Landscaped Open Space Required

Non-single-family uses shall provide minimum landscaped open space on the lot as specified below.

(a) In all districts excluding C-B, L-I and H-I, a minimum of 20% of the lot area must be landscaped when the property is used for any use other than a detached single-family dwelling.

(b) In the L-I and H-I districts, a minimum of 15% of the lot area must be landscaped when the property is used for any use other than a detached single-family dwelling.

(c) There is no minimum requirement for landscaped open space in the C-B district.

Section 13-2-3. Landscaping Encroachments

Landscape strips and areas devoted to meeting minimum landscaped open space requirements shall contain no structures, parking areas, patios, stormwater detention facilities, or any other accessory uses except for:

(a) Retaining walls or earthen berms constructed as part of an overall landscape design.

(b) Pedestrian-oriented facilities such as sidewalks and bus stops.

(c) Utilities.

(d) Driveways required to access the property.

(e) Signs otherwise permitted by Article 14.

Section 13-2-4. Landscape Strip Planting Specifications

(a) One tree shall be provided within the landscape strip for every 30 feet of street frontage or portion thereof. Trees may be deciduous or evergreen but must be of a type that is suitable to local growing conditions.

(1) Deciduous trees shall be a minimum of three-inch caliper at time of planting and achieve a diameter breast (DBH) of at least 12 inches at maturity.

(2) Trees required by this section within landscape strips may be counted toward the minimum tree unit requirements established in Chapter 13-3, provided such trees are selected from the table of appropriate trees in Section 13-3-19.

(b) In addition to required trees, all portions of required landscape strips shall be planted with shrubs, grass or ground cover that is suitable to local growing conditions, except for those ground areas that are mulched. See Table 13-5 for a list of generally accepted shrubs. Shrubs not included on the list may be permitted upon approval by the Director.

Table 13-5. List of Recommended Shrubs

Large Shrubs		Small Shrubs	
Common Name	**Scientific Name**	**Common Name**	**Scientific Name**
American Holly	*Ilex opaca*	Azalea (all varieties)	*Rhododendron* (all varieties)
Buford Holly	*Ilex cornuta "bufordii"*	Common Jasmine	*Jasminum officinale*
Arborvitae	*Thuja occidentalis*	Dwarf Buford Holly	*Ilex cornuta 'Burfordii Nana'*
Eastern Red Cedar	*Juniperus virginiana*	Dwarf Burning Bush	*Euonymus alatus 'Compactus'*
Hertz Juniper	*Juniperus chinensis 'Hetzii'*	Dwarf Chinese Holly	*Ilex cornuta 'Rotunda'*
Leatherleaf Viburnum	*Viburnum rhytidophyllum*	Dwarf Yaupon Holly	*Ilex vomitoria 'Nana'*
Nell R. Stevens Holly	*Ilex x 'Nellie R. Stevens'*	Forsythia	*Forsythia x intermedia*
Savannah Holly	*Ilex x attenuate 'Savannah'*	Juniper (common)	*Juniperus communis*
Tea Olive	*Osmanthus fragrans*	Oregon Grapeholly	*Mahonia aquifolium*
Yaupon Holly	*Ilex vomitoria*	Oakleaf Hydrangea	*Hydrangea quercifolia*
		Spirea (all varieties)	*Spirea* (all varieties)

Large Shrubs		Small Shrubs	
Common Name	Scientific Name	Common Name	Scientific Name
		Weigela	*Weigela florida*

(c) New trees and shrubs may be planted at regular intervals or clustered for decorative effect following professional landscaping standards for spacing, location, and design and as approved by the Department of Community and Economic Development.

(d) At least 40% of the landscape strip area shall be covered by trees. The remaining area can be a combination of shrubs, grass, groundcover or mulch. Mulch may not exceed more than 25% of the total area of any landscape strip.

(e) Except for trees within sidewalk landscape strips, plant materials in the landscape strip shall not extend into the right-of-way unless specifically allowed by the Department of Public Works.

(f) Landscaping within site visibility triangles is permitted in accordance with Section 13-6-4.

Section 13-2-5. Parking Lot Landscaping

Deciduous shade trees shall be provided within any parking lot designed or intended to accommodate 5 vehicles or more, in accordance with the requirements of this section.

(a) One landscaping island with a deciduous shade tree shall be provided within the parking lot for every 20 parking spaces, or portion thereof. Additionally, every parking space shall be located within 70 feet of a landscape island. Trees required within parking lots by this section may be included in determinations of compliance with minimum tree unit requirements established in Section 13-3-12.

(b) A landscaping island shall be located at the end of every parking aisle between the last parking space and an adjacent travel aisle or driveway. The landscaping island shall be no less than 9 feet wide and the length of the adjacent parking space. In addition to providing a deciduous shade tree, the landscaping island shall be planted in ground cover or low-lying shrubs, except for mulch within the drip line or critical root zone of the shade tree. Landscaping materials must not encroach on site visibility at the end of parking aisles.

(c) Tree planting areas for shade trees and understory trees shall be no less than 9 feet in width and shall provide at least 150 square feet of planting space. If shared with other trees an additional 50 square feet of planting space shall be provided. No tree shall be located less than 2.5 feet from the back of curb.

(d) All parking lot landscape islands shall be curbed with minimum six-inch high header curbs, except where possible a curb cut may be used to direct runoff to swales or bioretention areas.

(e) Landscaping islands and tree planting areas shall be well drained and contain suitable soil and natural irrigation characteristics for the planting materials they contain.



(f) Grassy swales and bioretention areas are acceptable alternatives to curbing, piping, and detention of water in parking lots. Rain gardens and constructed wetlands may also be constructed to handle surface drainage of parking lots providing 10 or more parking spaces. These and other parking lot stormwater facilities shall be designed in accordance with Article 8, Chapter 11-11, and the latest revision of the Georgia Stormwater Management Manual (GSMM).

Section 13-2-6. Landscaping Plans Incorporated Into Tree Plans

(a) The landscaping requirements of this Article 13 shall be incorporated into tree plans as required by Section 11-6-9.

(b) If no tree plan is required, the Director may request the submission of a separate landscaping plan to demonstrate compliance with the requirements of this chapter, which may include any of the following as appropriate to determine compliance:

(1) Location and general type of existing trees;

(2) Existing trees to be saved;

(3) Methods and details for protecting existing trees during construction;

(4) Locations and labels for all proposed plants and a plant list or schedule showing the existing and proposed quantities in relation to any required quantities;

(5) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, signs and light fixtures.

Section 13-2-7. Additional Landscaping Standards

The following additional standards apply:

(a) Invasive or potentially invasive plants are not permitted.

(b) Existing tree cover and natural vegetation shall be preserved to the greatest extent possible or replaced with suitable vegetation.

(c) Ground cover may be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns, which would require regular watering in drought conditions.

(d) No artificial plants, trees, or other vegetation may be installed.

(e) Trees shall be planted to avoid conflict with utilities. This may include the installation of impermeable rigid tree root barriers, as determined by the city. When required, root barriers must be a minimum of 24 inches deep and include ribs to direct root growth downward.

(f) Except for any required trees, planted materials in parking lots shall not grow to a maturity of more than 2.5 feet to avoid site visibility problems.

(g) All plant material shall conform to the current version of the American Standard for Nursery Stock published by the American Nursery and Landscape Association.

Section 13-2-8. Landscape Maintenance

(a) The property owner must install and maintain plant materials in good and healthy condition equal to the original installation.

(b) Planting areas must be kept free of weeds, leaves and trash.

(c) Plants and materials used to comply with this chapter must be arranged to ensure easy access for maintenance, maintain clear sight lines, avoid encroaching on neighboring properties, and consist of species appropriate for the proposed location.

(d) Plant materials used to comply with this section that die or are otherwise removed must be replaced within 30 days of the date of their death or removal. An extension may be granted by the Director when the season of the year is not appropriate for landscape planting.

(e) The subject property shall continually meet the Buffers, Landscaping and Tree Protection standard set forth in the ULDC, unless exempt from this Chapter.

CHAPTER 13-3 TREE PROTECTION

Section 13-3-1. Establishment of Tree Protection Zone

Except as exempted by this Chapter, a tree protection zone is hereby established which applies to the entirety of a tract of land for which no tree protection plan has been approved. After such approval, the tree protection zone shall correspond to that part of a tract of land designated as such on said plan. Tree protection zones shall be shown on land development plans and preliminary subdivision plats, as applicable, or a separate tree plan shall be submitted to demonstrate compliance with this Chapter.

Section 13-3-2. Exemptions from Tree Protection Zone

The tree protection zone shall not apply to the following, except that any construction, paving, or other activity on a property that will damage trees on the public right-of-way is subject to the restrictions of this Chapter for the protection of existing trees:

(a) The C-B, Central Business zoning district.

(b) Property on which a single-family dwelling is being constructed under contract to the person who will occupy the structure.

(c) Property already occupied by an owner-occupied single-family dwelling, unless non-residential uses or additional dwelling units are proposed for such property.

(d) Public utility companies conducting operations on public and utility rights-of-way and easements or on sites for electric power substations and similar facilities, which operations are for the purpose of assuring uninterrupted utility services.

(e) Property in use for the following:

(1) Tree farming: The planting, cultivating, and harvesting of trees in a continuous cycle as a regular practice on a tract of land; not including the removal of trees for purposes of development or the removal of trees without replanting.

(2) Agricultural activities:

i. Bona-fide commercial production from the land or on the land of agricultural products, including horticultural, floricultural, dairy, livestock, poultry, and apiarian products, but not including forestry products (see “tree farming” herein); and

ii. clearing trees for the purpose of planting crops, providing pasture for livestock, or constructing buildings accessory to production of agricultural products.

Section 13-3-3. Tree Damage Prohibited

It shall be unlawful for any person to:

(a) Cut, carve or otherwise damage or remove any tree except in accordance with the provisions of this Chapter.

(b) Attach any wire, nails, advertising posters or other contrivance harmful to any tree.

(c) Allow any gaseous, liquid or solid substance which is harmful to trees (such as concrete washout, fuel, lubricants, herbicides or paint) to come in contact with them.

(d) Set a fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 13-3-4. Limitations on Tree Removal

(a) Existing significant trees or any other trees 10" DBH or larger that are in excess of the minimum required tree units per acre of development site (not including land area covered by buildings) but outside the construction area (buildings, accessory uses, parking area) shall not be removed unless adjacent development would cause irreparable damage to the critical root zones.

(b) No person shall remove more than 90% of the existing trees on a lot that is subject to the requirements of this Chapter.

(c) An existing tree survey identifying all significant trees 10" DBH or larger shall be required as part of the approved tree plan.

Section 13-3-5. Tree Retention Priorities

The retention of trees is the highest priority and shall take precedence over the removal of trees and replacement with smaller trees. Tree protection and landscaping plans shall be reviewed for compliance with the following provisions, and noncompliance with this Section may be grounds for disapproval of tree protection and landscaping plans required by this Chapter:

(a) Existing trees in required landscape strips shall be retained to the maximum extent possible.

(b) Existing trees between the building line and the street shall be retained to the maximum extent possible,

(c) Where existing trees exist where parking lots are proposed, such trees shall be integrated into the design of the parking lot so that they may be retained in tree planting islands, to the maximum extent possible.

(d) Any other existing trees in parking areas to the rear of the building line or elsewhere on the site shall be retained to the maximum extent possible.

(e) Trees categorized as significant trees, historical or landmark trees located shall be integrated into the design of the development to the maximum extent possible.

Section 13-3-6. Significant Trees

(a) Significant trees are composed of Specimen, Historic and Landmark trees. In order to obtain credit for a significant tree, the tree shall be protected in their natural state, free from damage.

(b) To encourage the protection of a significant hardwood tree additional density credits will be given for significant trees saved. Credit for any significant hardwood tree saved will be four (4) times the assigned unit value shown in Table 9-13-6.

(c) If a significant tree is damaged or removed without prior approval by the Director of Planning and Development, recompense or penalty will be required or imposed as follows:

(1) Any specimen tree that is removed without prior approval must be replaced by trees with a total density equal to twice the unit value of the tree removed. Additionally, replacement trees shall be a minimum of 3" caliper.

(2) If a historic or landmark tree is damaged or removed without prior approval, the Community and Economic Development Department will require replacement by trees with a total density equal to four (4) times the unit of the tree removed.

Section 13-3-7. Preliminary Tree Plan for Multiple Sites in Industrial Park

A preliminary tree plan may be submitted for development of an industrial park where multiple sites will be cleared and graded for purposes of marketing vacant sites to industrial prospects. Planting of new trees will not be required on a lot until a use is developed on that lot, and locations of new trees need not be shown on the preliminary plan. Removal of significant trees and other trees 10" DBH or larger shall be permitted only in conjunction with an

approved preliminary tree protection plan, an approved grading plan, and actual grading of building pads (i.e., not simply to clear the lot). The preliminary tree protection plan shall show the following:

(a) The extent of the development site.

(b) Limits of land disturbance, clearing, grading and trenching.

(c) Grade changes or other work adjacent to a significant tree or any other tree 10" DBH or larger which would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree.

(d) Units of trees that will be required on the lot when it is developed, calculated both: (1) without subtracting any building footprint area from the acreage and (2) by subtracting one-third of the lot area as assumed building area.

(e) Location of any significant, historical and landmark trees to be removed.

Section 13-3-8. Permit Required for Removal of Certain Trees

(a) On properties which are not specifically exempted by this Chapter, a permit shall be required to be issued by the Director to remove or cause the death of existing significant trees and any other trees 6" DBH or larger located within the tree protection zone or for grading or other work adjacent to a tree which would affect it adversely. An approved tree protection plan is required for issuance of a permit.

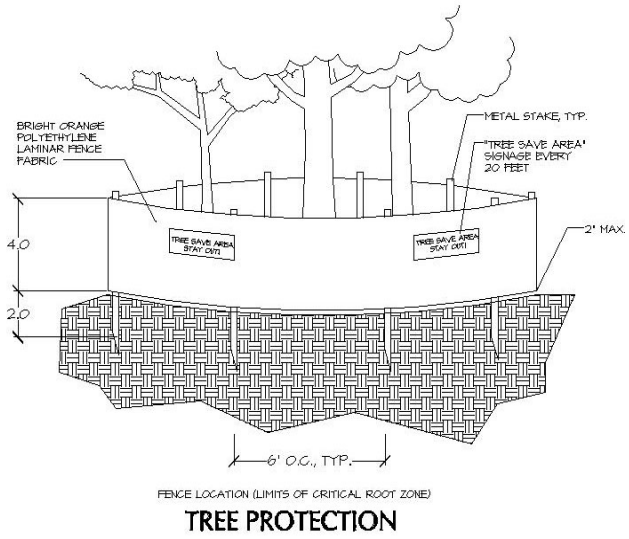
(b) Permit requirements of this Section shall be waived if the applicant submits information from an Certified Arborist, Registered Forester, Registered Landscape Architect, or other qualified professional who demonstrates in writing that trees to be removed are dead, are diseased or infested to the extent that removal is necessary, or have been damaged by lightning, wind, ice, or other disasters to the extent that public safety is endangered. When a tree that has died or has been irreparably damaged is counted toward meeting the minimum tree density requirements of this Chapter, said tree shall be replaced with an equal number of tree units on the site.

Section 13-3-9. Criteria for the Protection of Existing Trees

When a choice is available as to which existing trees to save, emphasis shall be given to the preservation of significant trees, as defined in this Chapter, even isolated significant trees, over retention of other trees. Non-significant trees, however, should be saved in stands rather than as individual trees scattered over a site.

Section 13-3-10. Tree Protection Fencing

(a) During excavation, filling, construction or demolition operations, each tree or stand of trees within tree protection zones or otherwise designated to remain on the property shall be protected against damage to bark, roots and low-hanging branches with an orange barricade fence enclosing the critical root zone of said trees to be retained.



(b) Fencing shall be either plastic construction area fencing, silt fencing, 12-gauge 2 x 4-inch wire mesh, double 1 x 4-inch rails on 2 x 4-inch posts, or high-visibility surveyors' tape on 1 x 2-inch posts. Height of the latter three fence types shall be 4 feet.

(c) Tree save area signage with the language, "Tree Protection Area – Do Not Disturb" shall be required every 20 feet of fencing.

Section 13-3-11. Additional Tree Protection Requirements

(a) Compaction prohibited. All building materials, vehicles, construction equipment, dirt, debris, or other objects likely to cause soil compaction or above-ground damage shall be kept outside the critical root zone of trees within tree protection zones or other trees to be protected. Where a limited amount of encroachment is unavoidable and is approved by the city, the critical root zone shall first be mulched with a 4" layer of processed pine bark or wood chips or a 6-inch layer of pine straw.

(b) Grade change prohibited. There shall be no raising or lowering of the ground level within the critical root zone of trees within tree protection zones or other trees to be protected. Stripping of topsoil in such critical root zones shall not be permitted. Where necessary, the use of moderate fill is permitted only with prior installation of an aeration system approved by the city. Deposition of sediment in such critical root zones shall be prevented by placement of sediment barriers, which shall be backed by 2 x 4-inch wire mesh in areas of steep slope.

(c) Ditches prohibited. No person shall excavate any ditch or trench within the critical root zone of trees within tree protection zones or other trees to be protected. Where such encroachment is unavoidable and is approved by the city, ditches or trenches shall be so located as to minimize root damage. If roots must be cut, root pruning procedures approved by the city must be employed.

(d) Paving prohibited. No person shall pave with concrete, asphalt, or other impervious material within the critical root zone within tree protection zones or other trees to be protected.

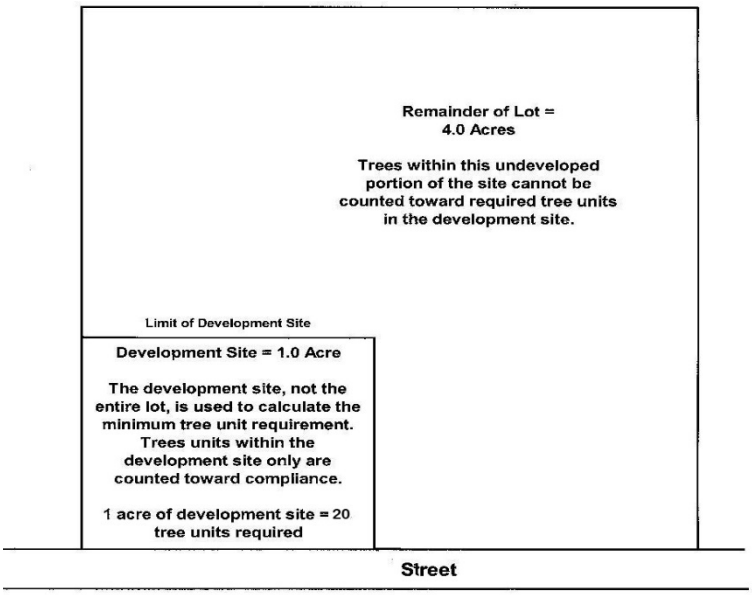
(e) Encroachment in critical root zones. Encroachment on the critical root zone of a tree is permitted where necessary to the development (e.g., construction of a driveway), provided the tree is not counted toward the required minimum tree units per acre of development site (not including land area covered by buildings). Encroachments shall occupy nor more than 25% of the total area in the root protection zone circle.

Section 13-3-12. Minimum Tree Units Required

(a) Upon completion of development, all properties shall have the minimum tree units per acre of the development site (not including land area covered by buildings). Within the development site of any property subject to the requirements of this Chapter, and unless otherwise specifically exempted from the provisions of this Chapter, there shall be enough trees to produce a total Tree Density Unit of no less than 18 units per acre.

(b) For purposes of this Chapter, the term "development site" excludes undeveloped portions of a lot.

(c) Trees on the same lot but within required buffers or undeveloped portions of the site shall not be counted toward meeting this requirement for any given development site. A development site may be proposed larger than the limits of clearing, to retain trees on a forested portion of the site that will help meet the requirement of this Section, provided that the area containing trees is set aside as a tree protection area and is made a part of the boundary of the development site, through boundary line adjustment if the development site is a separate lot.



Example Minimum Tree Unit Calculation (5-acre lot, 1-acre development site)

Section 13-3-13. Tree Inventories and Surveys

Compliance with the required Site Density Factor shall be demonstrated on the Tree Protection and Replacement Plan and the Grading and Erosion Control Plan. All trees that are to be counted toward meeting density requirements must be inventoried or sampled based on the acreage of the development site. The method used to inventory the trees must be indicated on the plans.

On tree save areas greater than three acres, all tree save areas must be surveyed using an approved scientific sampling method (e.g., Basal Area). Timber cruising methods (50' X 50' sample areas or the prism method) of sampling is needed for large tracts. One sample required for every three acres of Tree Save Area. Sampling should be done in areas to remain as undisturbed Tree Save Areas, not areas intended for development. The contents of each sample area shall be inventoried. All sampling areas shall be accurately depicted on the Tree Protection and Replacement Plan and appropriately flagged to corresponding locations on the actual site. When using sample areas, the basal area units should be averaged and an existing density factor per acre determined. Using this tree density, the appropriate amount of tree save area should be preserved to meet the Site Density Factor requirements. These calculations must be included on the tree plan.

Section 13-3-14. Calculation of Tree Units Generally

One "tree unit" is not the same as one "tree." For existing trees, the "tree units" assigned are the cross-sectional areas of the trunks at DBH in square feet. For new trees, credits given reflect a size that will be achieved after several

years of growth. When the calculation of tree units required results in a fraction, the number of tree units shall be rounded upward to the next highest whole number.

Section 13-3-15. Measurement of Tree Units of Existing Trees

The diameter of an existing tree's trunk will be measured and a value assigned in "tree units" in accordance with Table 13-6. When an existing tree meets the definition of "significant hardwood tree" as provided in this Chapter, the value assigned is four times the value shown in Table 13-6.

Table 13-6: Tree Unit Values for Existing Trees

DBH (inches)	Tree Units	DBH (inches)	Tree Units
1 to 4	.3	28	5.3
5 to 6	.6	29	5.7
7	.8	30	6.1
8	1.0	31	6.5
9	1.1	32	7.0
10	1.2	33	7.3
11	1.3	34	7.8
12	1.5	35	8.3
13	1.6	36	8.9
14	1.8	37	9.3
15	1.9	38	9.8
16	2.0	39	10.4
17	2.1	40	10.8
18	2.3	41	11.4
19	2.4	42	12.0
20	2.5	43	12.6
21	3.0	44	13.2
22	3.2	45	13.8
23	3.6	46	14.4
24	3.8	47	15.0
25	4.2	48	15.8
26	4.6	49	16.4
27	5.0	50 and above	17.0

Section 13-3-16. Measurement of Tree Units of Replacement Trees

The diameter of a replacement tree's trunk will be measured and a value assigned in "tree units" in accordance with Table 13-7. For purposes of this Section, a "large species" is one that will have a height at maturity of 40 feet or more. All fractions of tree requirements shall be rounded up to the nearest whole number.

Table 13-7: Tree Unit Values for Replacement Trees

Generally		Large Species	
Caliper (inches)	**Tree Units**	**Caliper (inches)**	**Tree Units**
2	.6	2	.7
3	.7	3	.8
4	.8	4	1.0
5	.9	5	1.2
6 and above	1.1	6 and above	1.4

Section 13-3-17. Criteria for Replacement Trees

(a) Spacing and the potential size of species chosen shall be compatible with spatial limitations of the site.

(b) The species must be ecologically compatible with the specifically intended growing site. Publications of the Georgia Forestry Commission, the Cooperative Extension Service of the University of Georgia College of Agriculture, or other sources acceptable to the City may be consulted regarding questions of tree characteristics.

(c) The trees must have the potential for size and quality comparable to those removed (e.g., an existing oak tree should not be replaced with a pine or dogwood tree).

(d) The trees must have crowns and root systems at maturity that will not disrupt nearby utilities, sidewalks, or public right-of-way infrastructure.

(e) Where trees must be added to achieve the minimum required tree units per acre of development site (not including land area covered by buildings), the following shall apply:

(1) Pines may not comprise more than 10% of the required tree units. Where existing pines already comprise 10% or more of the required units, no more pines may be credited toward the required tree units.

(2) No more than 30% of the required tree units can consist of a single tree species.

(3) At least 25% of the replacement tree units must be canopy trees.

(4) Flowering ornamental trees shall not be counted in terms of compliance with minimum tree unit requirements, unless listed in the tree list provided in Table 13-3 of this Chapter.

(f) Where trees must be added to achieve the required minimum tree units per acre of development site (not including land area covered by buildings), such additions shall be made between the street right-of-way and the front building line to the extent that physical space is available.

Section 13-3-18. Physical Site Limitations

Where the proposed development area (i.e., the buildings, accessory uses, and parking area) does not permit the retention or planting of trees equivalent to the minimum tree units per acre of the development site, the following regulations shall apply:

(a) The development site shall be enlarged, in cases where it does not comprise the entire lot.

(b) The tree protection zone shall, to the extent possible, be enlarged by removing parking spaces in excess of the minimum number required, by placing additional planting islands within the development area, or by reducing the area to be occupied by buildings.

(c) Alternative Compliance. Where such changes to development site or plans are not feasible, as determined by the Director of Community Development, the development applicant may propose and the Department may approve one of the two following alternatives:

(1) Off-site Location. An alternative, off-site location for the planting of trees to meet the minimum required tree units may be approved by the Department. Public street rights-of-ways and public properties in the City, or private property in the City that has a valid conservation easement granted in favor of tree protection, shall be acceptable alternative sites for tree planting. If this is allowed, an escrow account or bond shall be required and established to cover the costs of trees and installation. Approval for off-site planting of required trees shall not exceed 50% of total trees required for replanting.

(2) Tree Replacement Fund. In lieu of planting trees on an approved off-site location, the development applicant may contribute to the City of Gainesville Tree Replacement Fund. Contributions shall be calculated based on 3-inch caliper trees and shall be based upon the number, size and type of trees that cannot be planted on the development site. The amount of the donation shall be 100% of the estimated costs derived from the average of two written estimates provided by the applicant from nurseries, including the plant materials, labor and any other costs associated with the plantings. Approval for Tree Replacement Fund contribution in lieu of on-site replanting shall not exceed 50% of the total trees.

Section 13-3-19. List of Generally Appropriate Trees

Table 13-8 provides a list of trees generally appropriate for planting within the City. When selecting trees, the following guidelines must be considered:

(a) Tree selection must be suited to the location, climate and other factors of the site such as the presence of utility lines.

(b) Selected trees must have an expected mature height or spread that will meet the criteria of the code and fit within any constraints of the site such as overhead utility lines or similar features.

(c) Selected trees must be relatively low maintenance.

(d) No trees may be selected which are considered invasive species.

Table 13-8: List of Generally Appropriate Trees

Scientific Name	Common Name	Comments	Appropriate Planting Location		
			Street	Parking Lot	Buffer
Large Trees					
Acer buergeranum	Trident Maple	Deciduous	Y	Y	

Scientific Name	Common Name	Comments	Appropriate Planting Location		
			Street	Parking Lot	Buffer
Acer saccharum	Southern Sugar Maple*	Deciduous, shade tolerant	Y	Y	
Acer rubrum	Red Maple	Deciduous, urban street tree	Y	Y	
Betula nigra 'BNMTF'	River Birch	Deciduous, heat-tolerant/multi-branch		Y	
Carpinus betulus fastigiata	Upright European Hornbeam	Deciduous, narrow young/spreads with age	Y		
Carya illinoinesis	Hickories, Pecans (native, fruitless)	Deciduous, shade/branches subject to breakage			
Celtis laevigata	Sugar Hackberry*	Deciduous, street & shade tree	Y	Y	
Celtis occidentalis	Common Hackberry*	Deciduous	Y	Y	
Fagus grandifolia	American Beech*	Deciduous, avoid post-planting disturbance	Y	Y	
Fraxinus Americana	White Ash	Deciduous	Y	Y	
Fraxinus caroliniana	Carolina Ash	Deciduous, wet habitats			
Fraxinus pennsylvanica	Green Ash*	Deciduous, heat tolerant	Y	Y	
Ginkgo biloba	Gingko	Deciduous, urban tolerant, disease resistant, MALE only	Y	Y	
Juniperus virginiana	Eastern Red Cedar*	Conifer, not shade-tolerant			Y
Liriodendron tulipifera	Tulip Tree*	Deciduous, fast growing urban street tree	Y		
Magnolia grandiflora	Southern Magnolia*	Evergreen, specimen tree			Y
Metasequoia glyotostroboides	Dawn Redwood	Deciduous (conifer), tolerant of wet sites			
Nyssa sylvatica	Black Gum, Black Tupelo*	Deciduous, very hardy	Y	Y	
Pinus taeda	Loblolly Pine*	Evergreen			Y
Pinus virginiana	Virginia Pine*	Conifer			Y

Scientific Name	Common Name	Comments	Appropriate Planting Location		
			Street	Parking Lot	Buffer
Platanus occidentalis	Sycamore or Planetree*	Deciduous, roots may be invasive over time			
Platanus x acerifolia	London Planetree	Deciduous, urban-tolerant	Y	Y	
Quercus acutissima	Sawtooth Oak	Deciduous, specimen tree	Y	Y	
Quercus alba	White Oak*	Deciduous, difficult to transplant	Y	Y	
Quercus bicolor	Swamp White Oak*	Deciduous, sun, shade and wind tolerant	Y		
Quercus coccinea	Scarlet Oak*	Deciduous, drought tolerant		Y	
Quercus falcate	Southern Red Oak*	Deciduous, drought tolerant	Y	Y	
Quercus laurifolia	Laurel Oak*	Deciduous, drought tolerant			
Quercus lyrata	Overcup Oak*	Deciduous, transplants well, adapts to poor sites			
Quercus nigra	Water Oak*	Deciduous	Y	Y	
Quercus nuttallii	Nutall Oak	Deciduous, transplants well	Y	Y	
Quercus palustris	Pin Oak	Deciduous, specimen tree	Y	Y	
Quercus phellos	Willow Oak*	Deciduous, drought tolerant	Y	Y	
Quercus prinus	Chestnut Oak		Y	Y	
Quercus rubra	Red Oak	Deciduous	Y	Y	
Quercus shumardii	Shumard Oak*	Deciduous, good street tree	Y	Y	
Quercus stellata	Post Oak				
Robinia pserdoacacia	Black Locust	Deciduous, hardy tree			
Taxodium distichum	Bald Cypress	Deciduous, specimen tree		Y	
Thuja 'Green Giant'	Green Giant Arborvitae	Conifer, hardy/adapts well to saturated clay soils			Y

Scientific Name	Common Name	Comments	Appropriate Planting Location		
			Street	Parking Lot	Buffer
Zelkova serrata	Green Vase Japanese Zelkova	Deciduous, good street tree/fast growth	Y	Y	
Small Trees					
Acer palmatum	Japanese Maple#	Deciduous, specimen tree			
Amelanchier arborea	Serviceberry#	Deciduous, spring flowering			
Carpinus caroliniana	American Hornbeam*	Deciduous, tough urban-tolerant & wet-tolerant			
Cercis canadensis	Eastern Redbud*#	Deciduous, spring flowering			
Cedrus atlantica	Atlas Cedar	Conifer, specimen tree			Y
Cedrus deodora	Deodar Cedar	Conifer, specimen tree			Y
x Cupressocyparis leylandii	Leyland Cypress	Conifer			Y
Chionanthus virginicus	Fringe Tree*#	Deciduous, specimen tree			
Cladratis kentukea	American Yellowwood*	Deciduous, specimen tree			
Cornus florida	Flowering Dogwood*#	Deciduous, specimen tree			
Cornus kousa	Kousa Dogwood#	Deciduous, spring flowering			
Cotinus obovatus	American Smoketree*#	Deciduous, spring flowering			Y
Hamamelis virginiana	Witch-hazel*#	Deciduous, specimen			
Ilex x attenuate 'Fosteri'	Fosters Holly#	Broad-leaf, specimen tree/light shade-tolerant			Y
Ilex cassine	Cassine Holly*	Broad-leaf			Y
Ilex x 'Emily Bruner'	Emily Bruner Holly#	Broad-leaf			
Ilex x 'Nellie R. Stevens'	Nellie Stevens Holly	Broadleaf Evergreen			Y
Ilex opaca	American Holly*	Evergreen (broad-leaf), specimen tree			Y
Ilex opaca 'Greenleaf'	Greenleaf Holly	Broad-leaf, compact habit of growth			Y

Scientific Name	Common Name	Comments	Appropriate Planting Location		
			Street	Parking Lot	Buffer
Ilex verticulata	Winterberry*	Evergreen, specimen			Y
Ilex vomitoria	Yaupon Holly (Tree Form)*	Evergreen, drought tolerant			Y
Illicium floridanum	Florida Anise	Shade tolerant			Y
Koelreuteria paniculata	Golden Raintree	Deciduous, drought tolerant	Y		
Loropetalum chinense	Loropetalum	Semi-shade tolerant			Y
Magnolia virginiana	Sweetbay Magnolia*	Semi-evergreen			Y
Malus 'Callaway'/ x 'Dolgo	Callaway Crabapple#/ Dolgo Crabapple#	Deciduous, flowering & fruit/ disease resistant			
Myrica cerifera	Southern Wax Myrtle*	Sun, drought tolerant			Y
Osmanthus americanus	Devilwood*	Shade tolerant			Y
Ostrya virginica	Ironwood*	Evergreen, specimen			
Oxydendrum arboretum	Sourwood	Deciduous	Y		
Pinus virginiana	Virginia Pine	Evergreen			Y
Pistacia chinensis	Chinese Pistache	Deciduous, hardy & heat-tolerant			
Prunus caroliniana	Carolina Cherry Laurel	Broad-leaf, susceptible to ice damage			Y
Prunus mume	Japanese Apricot#	Deciduous			
Prunus subhirtella var. autumnalis	Fall Blooming Cherry#	Deciduous, specimen			
Quercus myrsinifolia	Chinese Evergreen Oak*	Evergreen (broad-leaf), specimen tree			Y
Thuja occidentalis	Northern White-Cedar; Eastern Arborvitae				Y
Ulmus alata	Winged Elm*	Deciduous, drought tolerant	Y		

Table Notes:
(*) Indicates Native Species
(#) Indicates Flowering Tree Species that may count toward site density factor

Section 13-3-20. Tree Maintenance

In addition to the maintenance requirements of Section 13-2-8, the following apply to all trees installed and planted to comply with Section 13-3-20.

(a) The property owner must install and maintain trees in good and healthy condition equal to the original installation.

(b) Trees shall be regularly watered to ensure survival.

(c) Ground cover under trees shall be replaced when needed.

(d) Trees must be kept free of weeds, leaves and trash.

(e) Trees used to comply with this chapter must be arranged to ensure easy access for maintenance, maintain clear sight lines, avoid encroaching on neighboring properties, and consist of species appropriate for the proposed location.

(f) Trees used to comply with this section that die or are otherwise removed must be replaced with minimum 3-inch caliper tree within 30 days of the date of their death or removal. An extension may be granted by the Director when the season of the year is not appropriate for landscape planting.

(g) The subject property shall continually meet the Buffers, Landscaping and Tree Protection standard set forth in the ULDC, unless exempt from this Chapter.

CHAPTER 13-4 PARKING AND LOADING

Section 13-4-1. Applicability

(a) This chapter applies to all new development and redevelopment.

(b) Before any development permit or building permit is issued, the parking lot layout and area must be found by the Director to comply with all applicable requirements of this Article 13.

(c) The Director may exempt from the permit and site design review requirements of this Code any improvement resulting in 4 or less parking spaces, or the addition of 4 or less parking spaces to an existing parking lot. Such exemption shall not relieve the developer of compliance with other applicable provisions of this ULDC.

(d) The building official shall not authorize occupancy or use of a building until advised by the Director or their designee that parking facilities meet the applicable requirements of this Article.

(e) Prior to the issuance of a business registration, compliance with the requirements of this chapter shall be demonstrated.

(f) This chapter shall not be construed as requiring compliance of parking lots which lawfully existed on the effective date of this ULDC; provided, however, that the Community and Economic Development Director shall ensure parking lots that do not comply with this chapter meet the requirements of this chapter or substantially comply when an existing developed site is planned for redevelopment, or a building permit is required to add additional building space on the site. If substantial redesign of the parking lot is required to comply with this chapter in such cases of redevelopment or building additions, the Community and Economic Development Director may accept substantial rather than complete compliance when the strict application of a requirement of this chapter would pose substantial practical difficulty.

Section 13-4-2. Parking Required

(a) Required vehicle parking spaces must be located on the same lot or site that they are intended to serve, except as provided for in Section 13-4-3.

(b) Calculation of Required Parking Spaces.

(1) Vehicle parking must be provided for different uses as specified in this chapter. Where a use is not listed, the Director is responsible for categorizing the use as specified in Article 9.

(2) No parking area shall be reduced in capacity to less than the minimum required number of spaces or increased to more than the maximum permitted number of spaces, unless specifically provided for in this chapter.

(3) In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number.

(4) When a site contains multiple uses, the parking requirements are the sum of the requirements for each use. No parking space for one use may be included in the calculation of parking requirements for another use, except as provided for in Section 13-4-3 for shared or off-site parking.

(c) Unless otherwise specified in this chapter or this ULDC, every use must be served by the minimum number of on-site, off-street parking spaces as specified in

Table 13-9. Requirements are based on the gross floor area of the building devoted to the particular use unless otherwise specified.

(d) Off-street parking is not required for any use within the C-B (Central Business) district, unless deemed necessary by the Community and Economic Development Director for new building construction. In such cases the minimum parking required shall also be considered the maximum permitted.

Table 13-9: Minimum and Maximum Number of Off-Street Parking Spaces Required

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
AGRICULTURAL USES		
All agricultural, except as listed below:	None	None
Equestrian center	1 per 300 square feet of office space plus 1 per 4 fixed seats or 1 per 250 square feet of assembly	1 per 150 square feet of office space plus 1 per 4 fixed seat or 1 per 250 square feet per assembly
RESIDENTIAL USES		
All household living, except as listed below:	2 per unit	4 per unit
Multi-family dwelling, one and two bedroom	1.5 per unit plus 1 guest space per every 10 units	2 per unit plus 1 guest space per every 10 units
Multi-family dwelling, three bedroom	2 per unit plus 1 guest space per every 10 units	3 per unit plus 1 guest space per every 10 units
Single-family dwelling, attached	2 per unit plus 1 guest space for every 5 units	4 per unit plus 1 guest space for every 3 units
All group living, except as listed below:	2 per unit	3 per unit
Group home, rooming house	1 per 4 living units	1 per each living unit
Institutionalized residential living	1 per 4 beds	1 per 3 beds
PUBLIC AND INSTITUTIONAL USES		
All club or lodge, private	1 per 400 square feet	1 per 200 square feet
All places of worship	1 per 4 seats in the largest assembly space or 1 per 100 square feet when no fixed seats are provided	1 per 3 seats in the largest assembly space or 1 per 50 square feet when no fixed seats are provided
All museum or library, private	1 per 500 square feet	1 per 300 square feet
All parks and open space, except as listed below:	1 per 5,000 square feet of use area	1 per 3,500 square feet of use area
Golf course	2 per hole	3 per hole
All public use, except as listed below:	1 per 500 square feet	1 per 350 square feet

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
School, public or private	3 per classroom	5 per classroom
COMMERCIAL USES		
All adult entertainment establishments	1 per 500 square feet	1 per 350 square feet
All bed and breakfast inn	2 for the owner-operator plus 1 per guest bedroom	2 for the owner-operator plus 1 per guest bedroom
All day care centers	1 per 500 square feet	1 per 375 square feet
All eating and drinking	1 per 200 square feet	1 per 100 square feet
All event facilities	1 per 200 square feet	1 per 150 square feet
All hotels, motels, extended stay hotels	1 per guest room plus as required for any eating and drinking or event facility (when provided)	1.5 per guest room plus as required for any eating and drinking or event facility (when provided)
All indoor recreation, except as listed below:	1 per 250 square feet	1 per 150 square feet
Bowling alley	2 per each lane	4.5 per each lane
Concert halls or auditoriums	1 per 4 seats in the largest assembly space or 1 per 100 square feet when no fixed seats are provided	1 per 3 seats in the largest assembly space or 1 per 50 square feet when no fixed seats are provided
Health or fitness club	1 per 200 square feet	1 per 150 square feet
Theater	1 per 4 fixed seats	1 per 3 fixed seats
All medical, except as listed below:	1 per 300 square feet	1 per 150 square feet
Hospital	1.5 per bed	2 per bed
All office	1 per 400 square feet	1 per 250 square feet
All outdoor recreation, except as listed below:	1 per 500 square feet of indoor space plus 1 per 2,000 square feet of outdoor use area	1 per 350 square feet of indoor space plus 1 per 1,500 square feet of outdoor use area
Golf driving range	0.5 per tee	1 per tee
Miniature golf	2 per hole	3 per hole
Outdoor event facility, stadium or sports arena	1 per 4 seats or 1 per 250 square feet of event area, whichever is less	1 per 3 seats or 1 per 150 square feet of event area, whichever is less
All personal service, except as listed below	1 per 300 square feet	1 per 200 square feet
Funeral home or mortuary	1 per 4 seats in largest chapel	1 per 3 seats in largest chapel
All retail, except as listed below:	1 per 300 square feet	1 per 220 square feet
Open air sales	1 per 250 square feet of indoor floor space plus one per 600 square feet of outdoor sales area	1 per 200 square feet of indoor floor space plus one per 500 square feet of outdoor sales area

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
Retail developments of 50,000 square feet or more	1 per 350 square feet	1 per 225 square feet
All self-storage facilities	1 per 40 storage units	1 per 25 storage units
All vehicular, as listed below:		
Car wash	None	6 stacking spaces per wash bay
Fuel sales	1 per fuel pump plus 1 per 500 square feet of retail floor area	1 per fuel pump plus 1 per 350 square feet of retail floor area
Truck stop	1 per fuel pump plus 1 per 500 square feet of retail floor area	1 per fuel pump plus 1 per 350 square feet of retail floor area
Vehicle sales, leasing or rental new or used	1 per 400 square feet of office space plus 1 per employee plus 1 per vehicle inventory plus 1 per vehicle serviced	1 per 250 square feet of office space plus 1 per employee plus 1 per vehicle inventory plus 1 per vehicle serviced
Vehicle repair, minor or major	1 per 300 square feet of office space plus 1 per employee plus 1 per vehicle serviced	1 per 150 square feet of office space plus 1 per employee plus 1 per vehicle serviced
INDUSTRIAL USES		
All heavy industrial, except as listed below:	1 per 5,000 square feet	1 per 1,500 square feet
Manufacturing	1 per 1.5 employees	1 per 1 employee
All light industrial, except as listed below:	1 per 5,000 square feet	1 per 1,500 square feet
Brewery, winery, or distillery	1 per 2,500 square feet, plus as required for any eating and drinking or event facility (when provided)	1 per 1,500 square feet, plus as required for any eating and drinking or event facility (when provided)
All storage lots or yards	1 per 300 square feet of office	None
All warehouse and distribution	1 per 3,000 square feet	1 per 1,500 square feet
All wholesale	1 per 2,000 square feet	1 per 750 square feet

Section 13-4-3. Parking Reductions

The total number of parking spaces required may be reduced as specified below.

(a) Off-site Parking. Parking spaces required by this chapter may be provided off-site subject to the following:

(1) The property providing the off-site parking must be within 400 feet of the principal use, with pedestrian access provided between the sites.

(2) No required parking may be located across any state or federal highway from the use they are intended to serve.

(3) No more than 30% of the total parking requirement may be provided off-site.

(4) The use of off-site parking spaces will not reduce the required parking for the property providing such off-site parking below the minimum required by this ULDC.

(5) The property containing the off-site parking must:

i. Be under the same ownership as the property to which the parking will serve; or

ii. Provide written consent in the form of lease agreements to the Director for the off-site parking arrangement.

(b) On-street Parking. When on-street parking exists in the public or private right-of-way, one on-street parking space may be substituted for each required parking space, provided the on-street space immediately abuts the property.

(c) Shared Parking. Parking spaces required by this chapter may be reduced by the Director when the following are met:

(1) The spaces are within 400 feet of the main entrance to the building or use they are intended to serve.

(2) Uses sharing parking have either mutually exclusive or compatibly overlapping normal hours of operation, as determined by the Director.

i. For places of worship, theaters, or other places of assembly in which activities primarily occur on weekends or evenings, up to 50% of all required parking spaces may be utilized by other uses with hours of operation which do not conflict.

(3) The property containing the shared parking must:

i. Be under the same ownership as the property to which the parking will serve; or

ii. Provide written consent in the form of lease agreements to the Director for the shared parking arrangement.

Section 13-4-4. Parking Lot Layout and Design

The following standards apply to all parking lots with 5 or more parking spaces.

(a) Access.

(1) No parking space may be located within 25 feet of the intersection of a driveway and any public right-of-way. The Director of Public Works may require a greater distance when the driveway is located along an arterial or collector street.

(2) Interior driveways must connect each parking space with a public right-of-way.

(3) On-site parking must be arranged so that no vehicle is forced to back out onto a public street.

(b) Surfacing. Parking lots shall be improved with an asphalt or concrete surface and curb and gutter as approved by the Department of Public Works. Alternative standards for surfacing may be approved when:

(1) The Director of Public Works, or their designee, determines that an alternative surface material will reduce environmental impacts and improve overall water quality.

(2) The Director of Public Works, or their designee, determines that an alternative to traditional curb and gutter will reduce environmental impacts and improve overall water quality.

(3) It is determined by the Community and Economic Development Department that alternative standards within the Historic Preservation Overlay are appropriate to the character of the historic district or landmark site.

(4) A parking lot is proposed containing 75 or more parking spaces or a total paved area greater than one acre.

(c) Parking Space Dimensions. See Table 13-10.

(d) Drive Aisle Dimensions. See Table 13-10. In addition to those standards, the following apply:

(1) No drive aisle may exceed 300 feet in length without a break for vehicular circulation.

(2) Every drive aisle must be clearly marked with directional arrows on the pavement at intersections with other drive aisles, driveways, or street entrances.

(3) Adequate site distance must be provided at any drive aisle intersection with other drive aisles, driveways, or street intersections.

Table 13-10. Parking Lot Layout Standards

Dimension	0° Parallel	45° Diagonal	60° Diagonal	90° Perpendicular
Space Width	9 ft.	9 ft.	9 ft.	9 ft.
Space Length	20 ft.	17.5 ft.	17.5 ft.	18 ft.
One-way Driveway Aisle Width	12 ft. min.	18 ft. min.	18 ft. min.	22 ft. min.
Two-way Driveway Aisle Width	22 ft. min.	22 ft. min.	22 ft. min.	26 ft. min.

(e) Compact Parking.

(1) Any parking lot with more than 20 required spaces may use compact parking spaces for up to 20% of the provided parking.

(2) Compact parking spaces must be at least 8 feet in width and 16 feet in length.

(3) All compact parking spaces must be clearly labeled for compact car use only.

(f) Accessible Parking. Accessible parking must be provided as specified in Table 13-11.

(1) Accessible parking spaces must be at least 9 feet in width with an access aisle at least 5 feet in width.

(2) Accessible van spaces must be at least 11 feet wide with an access aisle at least 5 feet in width.

(3) Two adjacent accessible parking spaces may share a common access aisle.

(4) Parking access aisles must be part of an accessible route to the building or facility entrance.

Table 13-11: Minimum Number of Accessible Spaces Required

Total Required Parking Spaces	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

Total Required Parking Spaces	Minimum Number of Accessible Spaces
401 to 500	9
501 to 1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

(g) Lighting. Light poles must be located in landscaped areas. Where this cannot be accomplished, light poles must be placed on a reinforced concrete pedestal to protect them from damage.

(h) Landscaping. See Section 13-2-5.

(i) Pedestrian Circulation.

(1) Pedestrian walkways connecting from the closest street sidewalk to the building entrance shall be provided.

(2) Pedestrian walkways must be at least 5 feet wide and take as direct a path as possible to building entrances.

(3) When multiple buildings are proposed on a single development site, they shall be linked with on-site pedestrian walkways.

(4) Where walkways cross internal driveways, pedestrian walkways must be demarcated with pavement markings, pavers or other material, or be raised to slow traffic and provide safe access.

(5) Pedestrian walkways shall be well defined and separated from vehicular access areas.

(6) Pedestrian walkways on individual properties shall connect to the sidewalk system within public road right-of-way, where such system exists or is planned.

(j) Screening. Parking areas adjacent to any public or private street must be screened from view by low masonry walls, fences, berms or landscaping.

Section 13-4-5. Bicycle Parking

Bicycle parking must be provided in accordance with the following:

(a) Nonresidential uses with 20 or more vehicle parking spaces must provide at least 1 bicycle parking space, plus 1 space for each additional 20 required or provided vehicle parking spaces.

(b) Multifamily uses must provide at least 1 bicycle parking space for each 10 dwelling units.

(1) At least 50% of required bicycle parking spaces must be designed for long-term parking.

(2) Long-term parking areas must:

i. Be provided in an enclosed bicycle storage locker, a room within a building, or within a parking structure. Such areas shall be secure, weather resistant, and provided with lighting at all hours.

ii. Be located on the ground floor and accessible to building occupants from public streets, multi-use trails, or public entrances and walkways without the use of stairs or elevators.

(c) No use that is required to provide bicycle parking may provide less than 3 or be required to provide more than 30 spaces.

(d) Bicycle parking must:

(1) Be securely anchored.

(2) Be provided in a well-lit area.

(3) Be spaced in such a way as to provide clear and maneuverable access to all bicycle parking racks.

(4) For exterior bicycle parking, spaces must be as close or closer than the nearest vehicular parking space to the building entrance.

Section 13-4-6. Prohibited Uses of Parking

The following are prohibited in required off-street parking areas:

(a) The display for sale of all types of vehicles, except for private individuals selling one vehicle for a residence or a licensed dealership.

(b) The display, storage or sales of any goods or merchandise, except when part of an authorized temporary event.

(c) The display or storage of any equipment, materials or supplies.

(d) Motor vehicle repair or servicing.

(e) Vehicles, trailers, or equipment used as a mobile sign.

Section 13-4-7. Off Street Loading

Off-street loading spaces must be provided in accordance with Table 13-12. Loading spaces may serve only the designated use and must be on the same lot as the use, unless otherwise authorized in this ULDC.

(a) Design and Arrangement. The following standards apply to all off-street loading areas:

(1) Loading spaces must be at least 14 feet in width and 40 feet in depth with a vertical clearance of 14 feet.

(2) Loading spaces for full-size tractor trailers must be at least 14 feet in width and 60 feet in depth with a vertical clearance of 14 feet.

(3) Maneuvering space for loading areas must not include required parking spaces or any portion of a public right-of-way.

(b) Location Limitations.

(1) Off-street loading spaces and associated maneuvering areas may only be located in those portions of a lot where off-street parking areas are allowed.

(2) Loading spaces may not be located between the building and the street. Instead, loading spaces must be located to the side or rear of the building or use in which it serves.

(c) Screening. All off-street loading areas must be screened as follows:

(1) Any loading space or associated maneuvering areas located adjacent to a residential use or district must provide a 50-foot landscaped buffer between such areas and the adjacent residential use or district.

(2) Any loading space or associated maneuvering areas located adjacent to a public or private street must be screened with a fence or wall at least 8 feet in height and compatible with the principal building in terms of texture, quality, material, and color.

(3) The Director may grant an administrative variance to substitute evergreen material in lieu of a wall when it is demonstrated that such material will provide an equal or greater measure of screening within 3 years of planting.

Table 13-12. Loading Requirements

Use	Floor Area (in square feet)	Loading spaces required
Nonresidential	0 - 19,999 20,000 - 49,999 50,000 - 250,000 250,000+	None 1 2 3
Industrial	0 – 10,000 10,000 – 49,9999 50,000+	1 2 3

Section 13-4-8. Administrative Variances

(a) The Director may allow parking at a rate of up to 20% above the maximum or 20% below the minimum required as specified in Table 13-9 on a case-by-case basis based upon the scale and impacts of the request, in accordance with Chapter 20-3 of this Code.

(b) The applicant shall make said request in writing and include documentation from an acceptable industry publication (e.g., Institute of Transportation Engineers, Urban Land Institute, American Planning Association, etc.) or by a study prepared by a qualified professional that documents parking requirements.

(c) In approving administrative variances that reduce the minimum parking requirements established in this chapter the Director may, as a condition of approval, require an area to be reserved or set aside for additional parking area for future use if needed.

CHAPTER 13-5 ACCESS AND DRIVEWAYS

Section 13-5-1. Access

(a) Every lot shall have access via an approved roadway or driveway to a public street or private street which connects to the public street system.

(b) Ingress and egress to parking areas shall be by means of a driveway from the abutting street meeting the minimum requirements of this chapter.

(c) The Community and Economic Development Director shall not authorize access of development in a non-residential zoning district through any residential zoning district, except for mixed-use developments.

Section 13-5-2. Access on State Routes

(a) Access onto a U.S. or state highway shall meet Georgia Department of Transportation requirements. Such state approval and driveway permit shall be a precondition of development permit approval. A copy of the Georgia Department of Transportation permit shall be submitted to the Director before plans can be approved.

(b) For driveways accessing U.S. or State highways, the requirements of the Georgia Department of Transportation shall apply whenever more restrictive than the standards in this chapter.

Section 13-5-3. Permits

(a) A permit shall be required for construction in any public right-of-way. Permits will not be issued until such time that plans have been submitted and approved by the Public Works Director or their designee and, if a surfacing other than asphalt or concrete is used, the Department of Water Resources Director or their designee.

(b) No curbs or medians on public streets or rights-of-way shall be cut or altered for access, and no driveway connection to a public or private street shall be made or altered, without a permit issued by the Public Works Department and any other applicable jurisdictions.

(c) Deceleration lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets.

(1) When required, deceleration lanes shall be 12 feet in width plus curb and gutter for a minimum distance of 200 feet measured from the intersection of the right-of-way lines, or as may be otherwise required by the Georgia Department of Transportation or the Public Works Director.

Section 13-5-4. Driveway Design Standards

(a) Vehicular access from properties to streets shall comply with the dimensional requirements as shown on Table 13-13, measured at the right-of-way line.

(1) When a property containing a single-family residence is converted to a use that requires a wider driveway, the Public Works Director may reduce the driveway width required by this Section if access via a narrower driveway will not be impeded.

Table 13-13: Driveway Width Requirements

Use	Minimum Driveway Width		
	Divided Entrance with Center Island	Two-Way	One-Way
Single-Family Residence	25 feet	8 feet	8 feet
Multi-Family Residential	36 feet	26 feet	12 feet
Commercial & Industrial	36 feet	30 feet	16 feet

(b) Construction Standards. Driveway connections shall be provided between the edge of pavement or back of curb to the right-of-way line. Such connections must be constructed as follows:

(1) Curb and gutter streets shall provide a driveway apron constructed of 3000 psi concrete at least 6 inches thick. Sidewalks, where provided, shall continue across the driveway apron at the same prevailing grade and cross slope.

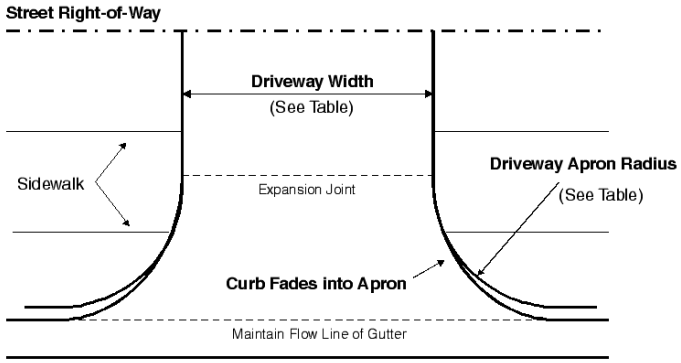
(2) Swale ditch section streets shall provide a driveway apron constructed of 3000 psi concrete at least 6 inches thick, or asphaltic concrete of the same thickness and type as the paving course(s) for the street.

(3) For streets that have been overlaid with new asphalt or concrete over existing pavement, driveway aprons shall tie into the existing curb and gutter. Asphalt may be added to the apron for smoother access.

(4) All driveway aprons shall have a radius connecting the driveway to the curb line or pavement edge as shown on Table 13-14.

Table 13-14: Driveway Apron Radii

Use	Minimum Driveway Radius
Single-Family Residential	5 feet
Commercial or Multi-Family Residential	15 feet
Industrial	25 feet



(c) Driveway Surfacing.

(1) Driveways shall be paved with asphalt or concrete unless the Department of Water Resources Director, or their designee, permits porous materials due to environmental impacts or to meet the stormwater management and water quality objectives of this ULDC. Porous materials shall not be installed at commercial/industrial sites where, in the opinion of the water resources director or designee, the potential for spills and groundwater contamination exists.

(2) In the Historic Preservation overlay, the Community and Economic Development Director, or their designee, may recommend the use of alternative pavement surfaces or permit driveways to be unpaved if appropriate to the character of the historic district or landmark.

Section 13-5-5. Driveway Limitations

(a) Number of Driveways.

(1) Along State or U.S. highways, no more than one driveway access from a property shall be permitted for each 300 feet of lot frontage, or fraction thereof.

(2) Along all other streets, one driveway that meets the standards of this Sec. 9-13-4 may be permitted as indicated on Table 13-15. The Public Works Director may waive this requirement for good cause. Written application must be made to the Public Works Director stating the reason for the waiver.

(3) The Public Works Director may require restricted access driveways when necessary for the safe movement of vehicles or pedestrians.

Table 13-15: Number of Driveways Permitted

Number of Driveways		Road Frontage
Residential	Commercial/Industrial	
1	1	0’ to 199’
2	2	200’ to 299’
3	3	300’ to 399’
n/a	4	400’ to 499’
n/a	5	500’ and above

(b) Location of Driveways.

(1) No driveway shall be allowed within 35 feet of the right-of-way line of any street intersections for single-family and two-family residential lots and within 50 feet for all other uses. The Public Works Director shall have the ability to waive this requirement for good cause. Written application must be made to the Public Works Director stating the reason for the waiver.

(2) Corner lot access shall be located at the points farthest from the intersection to eliminate turning movement accidents and to promote proper storage of through traffic.

Section 13-5-6. Shared Driveways

(a) Shared driveways are permitted in every zoning district.

(b) Shared driveways between two parcels along the common property line may be required by the Public Works Director.

(c) When shared driveways exist, all property owners shall grant an access easement to facilitate the movement of motor vehicles across the site and property lines.

Section 13-5-7. Drive-throughs

(a) Drive-through windows and lanes may not be located between a building and the closest public street. The Director may grant an administrative variation from this requirement when it is demonstrated that this standard cannot be met for reasons of topography or other site conditions

(1) Where drive-through windows are allowed between a building and a public street, the entire length of the drive-through lane must be screened.

(2) Screening shall consist of a continuous evergreen hedge with a mature height of at least 4 feet or a screen wall at least 4 feet in height.

(b) Stacking spaces shall be provided and must begin at the window or communication/mechanical device (e.g., order board) first encountered by the vehicle user.

(1) Financial institutions, car washes and any other uses with drive-through facilities shall provide at least 3 stacking spaces for each window or drive-through service facility.

(2) Eating and drinking establishments with drive-through facilities shall provide at least 5 stacking spaces for each window or drive-through service facility.

(c) Stacking spaces and lanes for drive-through stations shall not impede on and off-site traffic movements or create potentially unsafe conditions for pedestrians.

(d) Drive-through lanes shall be separated by striping or curbing from off-street parking areas and drive aisles. Individual lanes shall be striped, marked, or otherwise distinctly delineated.

(e) All drive-through facilities shall be provided with a bypass lane a minimum width of 9 feet.

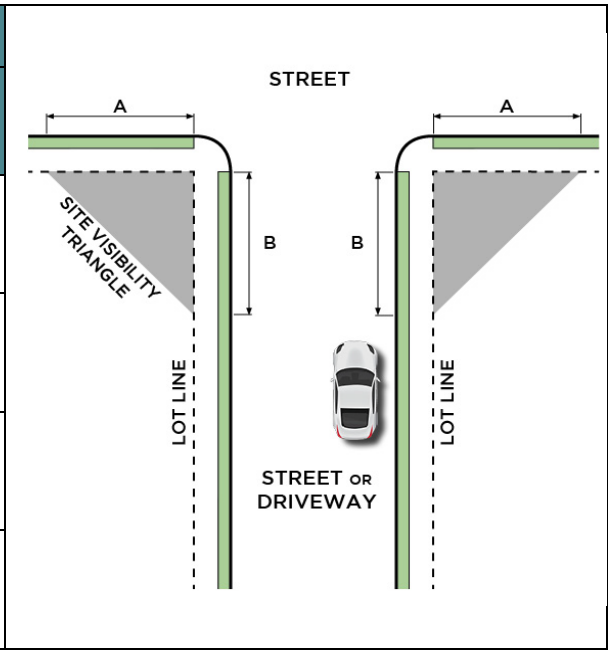
CHAPTER 13-6 SIGHT VISIBILITY TRIANGLES

Section 13-6-1. Site Visibility Triangles

A sight visibility triangle is hereby established at every public or private street intersection with another street or a private driveway, which shall meet the dimensions specified in Table 13-16. Required sight visibility triangles shall be delineated on all plans and plats.

Table 13-16: Site Visibility Triangle Requirements

"B" Distance in Feet		"A" Distance in Feet		
		Local Street	Collector Street	Arterial Street
25	Private Drive	25	25	25
30	Local Street	30	100	150
100	Collector Street	30	100	150
150	Arterial Street	30	100	150



Section 13-6-2. Delineation at Street Intersections

At public street intersections, the sight visibility triangle is delineated by the two intersecting street right-of-way lines and a line connecting the right-of-way lines at the points indicated in Table 13-10. The connecting points shall be measured from the right-of-way lines extended to their point of intersection.

Section 13-6-3. Delineation at Driveway Intersections

At driveway intersections with public streets, the edge of the driveway's pavement or back of curb will be used for the sight visibility triangle measurements along the driveway.

Section 13-6-4. Restrictions within Sight Visibility Triangles

(a) Within the sight visibility triangle, the planting of trees or other vegetation, or the construction of structures such as fences, walls, or signs over 2.5 feet in height that would obstruct the clear sight across the area of the visibility triangle is prohibited.

(b) The City shall have the authority to remove any object or vegetation that obstructs the clear sight.

(c) The Governing Body or Planning and Appeals Board may approve, or may direct as a condition of approval, fences or plantings taller than allowed by this Chapter to provide screening between different uses upon

agreement between the affected parties. No such approval may have the effect of reducing sight visibility required by this ULDC.

CHAPTER 13-7 OUTDOOR LIGHTING

Section 13-7-1. Applicability

This chapter applies to existing uses, not just those required to complete design review. All public and private outdoor lighting shall be in conformance with the requirements established by this chapter.

Section 13-7-2. Exemptions

The following are exempt from the provisions of this chapter:

(a) All temporary emergency lighting needed by police or fire departments or other emergency services.

(b) All hazard warning luminaries required by federal regulatory agencies.

(c) Any vehicular luminary.

(d) Safety lighting, as defined in this article.

(e) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.

(f) Holiday lights and decorations using typical unshielded low-wattage incandescent lamps, provided they are removed within 15 days following the holiday season to which they pertain.

Section 13-7-3. Full Cut-off Fixtures Required

All luminaries not exempted from this chapter hereafter installed for parking lots, buildings, and grounds shall be full cutoff luminaries, as defined by this ULDC, or another luminary which does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminary, unless otherwise part of a lighting plan approved by the Community and Economic Development Director.

(a) Security lighting, as defined in this ULDC, shall meet this requirement unless activated by motion sensor devices.

Figure 13-1: Example Full Cutoff Fixtures

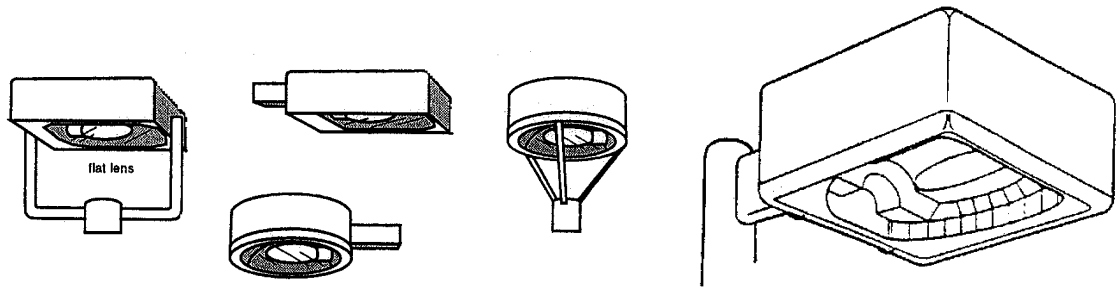


Figure 13-2: Example Security Lighting



(b) Wallpacks are not permitted unless fully shielded.

Figure 13-3: Shielded Wallpacks, Permitted

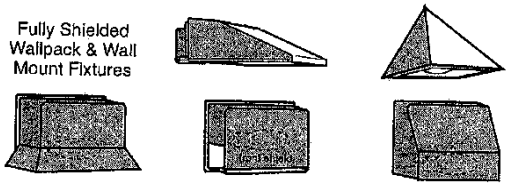
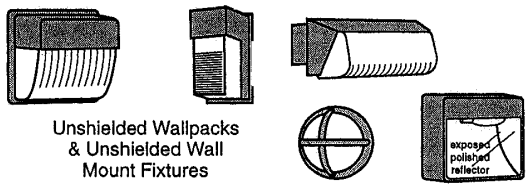


Figure 13-4: Unshielded Wallpacks, Prohibited



(c) Glare. Any luminary that is aimed, directed, or focused so that the lamp is visible, or in a way that causes direct light from the luminary to be directed toward residential buildings on adjacent or nearby land, or that creates glare perceptible to persons operating motor vehicles on public ways, shall be redirected or its light output controlled as necessary to eliminate such conditions.

(d) Intensity specifications. Illuminance levels for outdoor lighting fixtures serving parking lots, buildings and grounds shall comply in design and upon installation with the standards in Table 13-17, measured three feet above the ground or finished grade. Lighting for athletic fields and tennis courts shall be exempt from this section. In addition, the Director may also exempt or modify the requirements of this paragraph as a part of an approved lighting plan.

Table 13-17: Outdoor Lighting Regulations

At Property Lines (Including Rights-of-Way)	Minimum Footcandles	Maximum Footcandles
At property line abutting a residential use	None	0.5
At property line abutting an office or institutional use	None	1.0
At property line abutting a commercial or light industrial use	None	1.5

Off-Street Parking Lots	Minimum Footcandles	Average Footcandles	Maximum Footcandles
Residential areas	0.5	2.0	4.0
Office-institutional areas	1.0	3.0	6.0
Commercial areas	2.0	6.0	12.0
Light industrial areas	1.0	4.0	8.0

(e) Prohibitions. The following types of outdoor lighting are prohibited:

(1) Strobe lights, except as may be required for towers pursuant to Section 9-6-3(f), or other state or federal lighting requirements.

(2) Laser lights or searchlight beams projected into the sky.

(3) Neon-lit signs, neon outdoor lights, and neon or any other lighting outlining of windows or doors.

(f) Lighting plans. When a lighting plan is required for a specific use, as specified in Article 9, or, when a lighting plan is submitted as an alternative to compliance with the full cut-off fixture requirements or intensity specifications of this chapter, the lighting plan shall be submitted with the application required for the issuance of a land development permit as specified in Chapter 11-6.

CHAPTER 13-8 GUIDELINES FOR STEEP SLOPES

Section 13-8-1. Applicability

This Chapter shall apply to any development on slopes containing 15% or more. These guidelines supplement general site design guidelines for grading provided in this ULDC.

Section 13-8-2. Building Placement

On hillsides or slopes with 15% or more, buildings should be placed to blend with and avoid dominating the natural terrain; e.g., not on the crest of hills or ridges but below the crest. Buildings, even on separate but adjoining lots, should be grouped to complement the natural terrain and each other.

Section 13-8-3. Cut and Fill Slopes

(a) Steepness of slope. Cut and fill slopes shall be no more than 1½ times natural grade (e.g., increased from 10% to 15%) and shall be no steeper than 2:1 (50%).

(b) Planting. Cut or fill slopes more than 10 feet in height or 20 feet in depth shall be planted with trees. Trees shall be spaced at least 30 feet on center. These trees shall be in addition to other requirements for trees. Landscaping shall be used around buildings to blend cuts and fills into the natural terrain.

(c) Location of cut and fill slopes. Except for driveways, cut and fill slopes shall be entirely contained within a lot. The natural grade at the lot lines shall be maintained.

(d) Angles of cuts and fills. Sharp angles shall be rounded off, in a natural manner, at the top and ends of cut and fill slopes. Where this would damage tree root systems at the top of the slope, the amount of rounding off may be reduced and shrubs used instead to hide the transition.

(e) Retaining walls. Retaining walls may be used to minimize cut and fill and may be stepped in height or sloped from one height to another based on the grade of the terrain it is retaining.

(1) When a retaining wall is stepped, the face of the upper wall shall be separated from the face of the lower wall by a minimum horizontal distance of two feet. Such distance must be planted with landscaping or grassed.

Section 13-8-4. Standards for Adaptation of Development to Hillsides

The following standards are established for adapting developments to hillsides and steep slopes:

(a) Roads and building sites shall be designed and arranged to minimize grading.

(b) Hilltops, if graded, shall be rounded to blend with natural slopes rather than leveled.

(c) Slopes providing a transition from graded areas into natural areas shall be varied in percent grade both up-slope and across the slope, in the undulating pattern of surrounding natural slopes; so that the top or the toe of the cut or fill slope will vary from a straight line in plan view.

(d) Parking areas shall be constructed on multiple levels and follow natural contours as necessary to minimize cut and fill.

(e) Roads shall follow natural topography to the extent feasible to minimize cut and fill. Necessary grading shall be constant half-cut and half-fill along the length of the road unless other arrangements would result in less severe alteration of natural terrain.

(f) Repetitive padding or terracing of a series of lots shall not be permitted. Creation of a single large pad or terrace shall be an exception to typical design to deal with circumstances that can't be managed with other techniques. Typical design shall utilize full split pads, a split foundation, setting the building into a cut in the hillside, or a combination of techniques.

Figure 13-5: Appropriate Example of Grading Practices

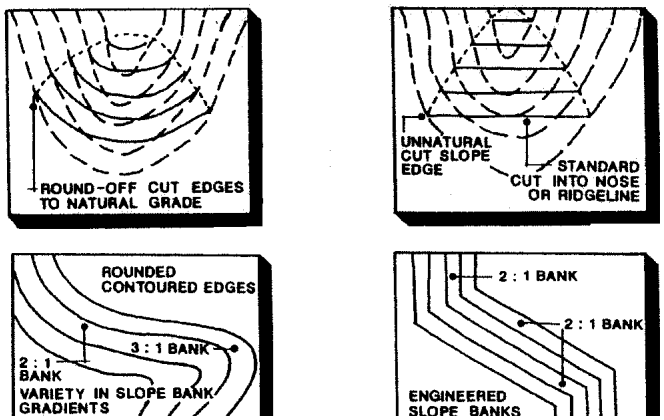
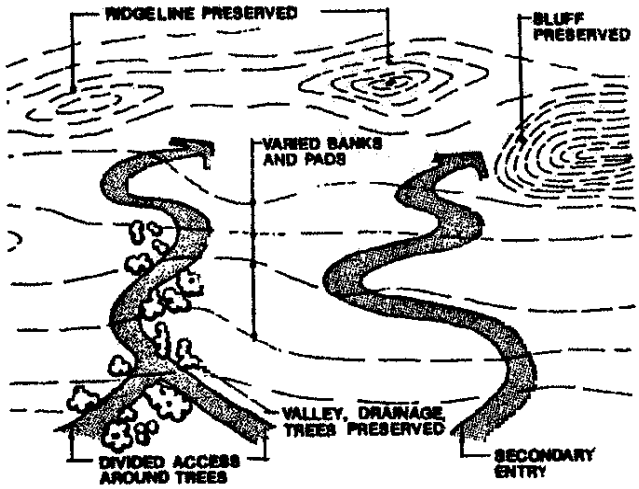


Figure 13-6: Appropriate Example of Locating Roads on Hillsides



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CHAPTER 14-1 GENERAL PROVISIONS

Section 14-1-1. Purpose

In addition to the general purposes of this Unified Land Development Code, the purposes of this Article are as follows:

(a) To promote and protect the public health, safety and general welfare;

(b) To provide for the expression of speech by citizens and businesses, and to afford adequate opportunity for self-expression through free speech;

(c) To balance the rights of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;

(d) To enhance the economy and the business and industry of the City by promoting the reasonable, orderly and effective display of signs;

(e) To maintain and enhance the aesthetics of the City by restricting signs and lights which increase clutter;

(f) To enable the public to locate goods, services, and facilities in the City without difficulty and confusion;

(g) To ensure the reasonable, orderly, and effective display of signs;

(h) To maintain and improve traffic safety by preventing or restricting signs that due to their placement or appearance increase the probability of traffic accidents by obstructing vision or confusing motorists;

(i) To promote signs which are compatible with their surroundings and which minimize potential adverse effects of signs on nearby property;

(j) To insure proper maintenance of signs, for safety and structural soundness, as well as the appearance and attractiveness of signs;

(k) To maintain the historic image of the City; and

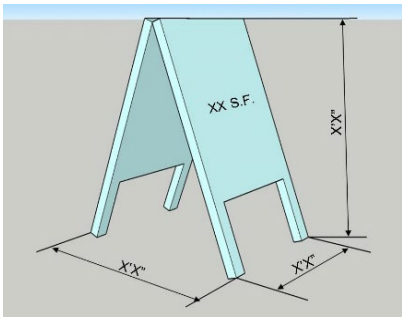
(l) To ensure the fair and consistent enforcement of sign regulations.

Section 14-1-2. Intent

The city intends to adopt and implement regulations which are content-neutral. Any sign allowed in the Article may contain any lawful non-obscene message so long as the sign complies with the size, height, area and other requirements of this Article and of the ULDC

Section 14-1-3. General Definitions

As used in this Article, the following words and terms shall have the meaning ascribed to them below:



A-frame sign. A sign that typically consists of two faces connected and hinged at the top, intended for view by pedestrians, and which can be moved by a person.

Accessory freestanding sign. An accessory freestanding sign is a permanent, ground-supported sign of limited height and size that provides supplemental identification for a business or property. Unlike a primary freestanding sign which might be larger and placed for high visibility along a road, an accessory freestanding sign is typically smaller and placed at points of entry or egress, or along internal driveways to direct traffic to different parts of the property. It is subordinate to the principal use of the site and its purpose is clearly incidental to that main use.

Advertising device. Any structure or device erected or intended for the purpose of displaying advertising situated upon or attached to real property or intended to attract attention by whatever means. For purposes of this Article, an advertising device is a "sign."



Air-blown device. Any device not otherwise specifically defined in this Article, that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by mechanically forced air. This definition specifically includes but is not limited to those devices referred to commercially as "air puppets" and "air dancers." For purposes of this Article, air-blown devices are advertising devices.

Animated sign. A sign that emits or utilizes in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing; or any sign that emits smoke, vapor, particles, or odors.



Awning. A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame and may be retracted into the face of the building.

Awning, back-lit. An awning comprised of covering material exhibiting the characteristic of luminosity obtained by means of a source of illumination contained within its framework.

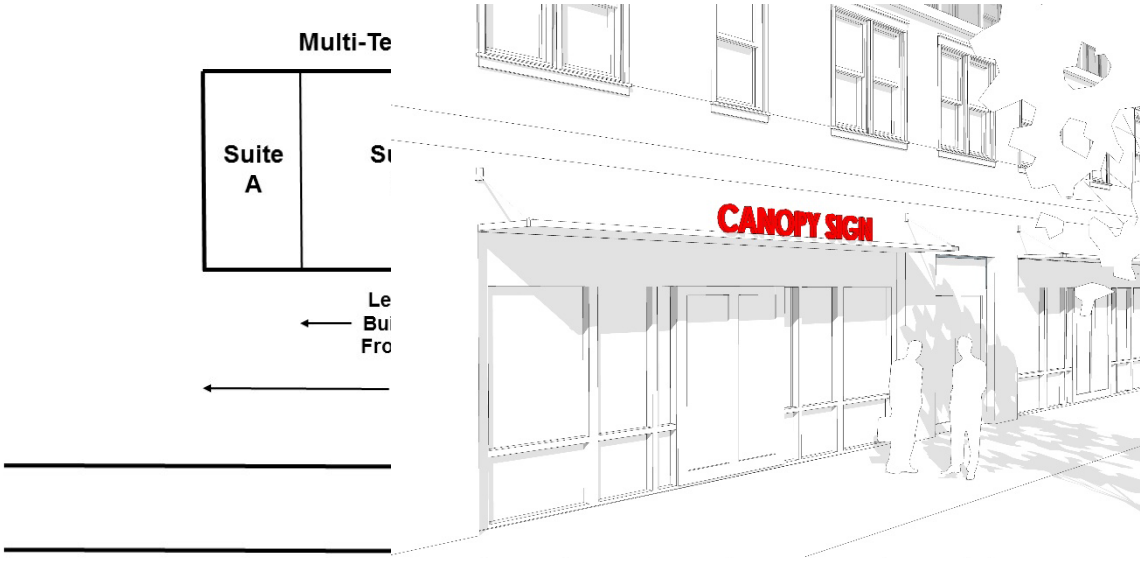


Awning sign. An awning that contains letters, numbers, symbols, pictures, logos, or visual display, or other communication, attached, painted on, or made an integral part of an awning. Awning signs are "wall signs" for the purposes of this Article.

Banner. A sign with or without characters, letters, illustrations, or ornamentation applied to cloth, paper, plastic, or natural or synthetic fabric of any kind with only such material for a backing, whether installed on a building or structure or attached to poles or other supports and freestanding. For purposes of this Article, a banner is a "sign." It is characteristic of a banner that, even though tied to a support, there is some movement in the wind (i.e., a wind-blown device).

Billboard. A freestanding sign that exceeds the maximum allowable area or height, or both, for principal use freestanding signs authorized in this Article, and which is authorized subject to specific limitations. A billboard is typically, though not required to be, erected by the outdoor advertising industry; and a billboard is typically regulated by and requires a permit for outdoor advertising from the Georgia Department of Transportation. The provisions authorizing a billboard are in addition to other sign allowances of this Article, A billboard existing on the effective date of this Article may or may not comply with the provisions of this Article, and to the extent any such existing billboard does not conform to all requirements of this Article it is considered a nonconforming sign.

Building frontage. The width in linear feet of the front exterior wall of a particular building in which an establishment is located, usually facing a street. Leased building frontage is that portion of the total building frontage containing space owned, leased, or rented to an individual establishment.



Canopy sign. A sign attached, painted on, or made an integral part of a canopy, whether that canopy is attached to a building or structure or freestanding. Canopy signs, whether attached, painted on, or made an integral part of an attached canopy (including suspension underneath an attached canopy), are wall signs for the purposes of this Article.

Changeable copy sign, electronic. A sign on which the sign copy (words, numbers, images, etc.) changes or can be changed by electronic means. This definition includes any sign which results in the illuminated display of messages or information by the use of a matrix of electric lamps, for example, digital, LED (light emitting diode) or similar or refined display technology, or other electric methods, which allows the message change to be actuated by an electronic control mechanism. It is characteristic of such signs that the sequence of messages and the rate of change can be electronically programmed and modified by electronic processes. Electronic changeable copy signs are also "internally illuminated" signs.

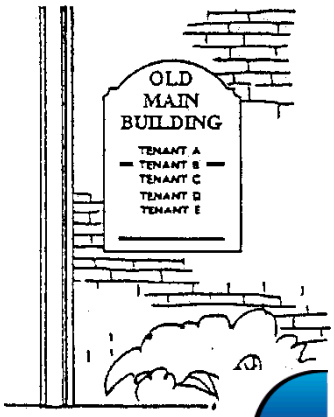
Changeable copy sign, manual. A sign on which the sign copy (words, numbers, images, etc.) changes or can be changed manually on the sign itself, such as by replacement of letters, or in the case of a chalkboard which can be erased and the message rewritten.

Changeable copy sign, mechanical. A sign on which the sign copy (words, numbers, images, etc.) changes or can be changed by movement or rotation of panels or slats.

Derelict sign. A sign that is dilapidated, is in such condition as to create a hazard or nuisance, is unsafe, or fails to comply with the International Building Code and/or the National Electrical Code adopted by the city in Code Section 9-16-1, or any other code relating to safety.

Discontinued sign. A freestanding or building sign that has not been used by a business, establishment, or person, for 6 months or more. A sign may be deemed discontinued by the Community and Economic Development Director when there is clear evidence that a business or activity has vacated the building or grounds for 6 months or more. A sign permitted by an establishment that still exists on a site where said establishment has not operated for 6 months or more, as evidenced by a lack of current (annual) business license, shall be considered prima facia evidence of a discontinued sign.

Directory sign for multi-tenant development. A sign, distinguished from a project entrance sign, which is allowed on a premise with more than one building or more than one tenant or occupant of a building, It may be freestanding or a building (wall) sign. Such signs are not visible from the public street right-of-way which provides initial access to the property, but rather are located within the development, along a driveway, access way, or parking aisle. This type of sign is not regulated by this Article.



Wall Directory

Fall zone. An area equal to 100% of the height of the billboard in every direction from the billboard.

Feather banner. A vertical portable sign, made of lightweight material that is prone to move in the wind, and that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. This definition includes such signs of any shape including flutter, bow, teardrop, rectangular, shark, feather, and U-shaped.



Flag. A device made of cloth, plastic, or natural or synthetic fabric, with or without characters, letters, illustrations, or ornamentation applied to such surface, and which is designed to move in the wind. For purposes of this Article, except as specifically authorized, a "flag" is a "sign." It is defined separately from wind-blown device.

Flying sign. A blimp, hot air balloon, or any other device designed to be or capable of being kept aloft, motionless or in motion, at a height of 35 feet or more from the ground by mechanical, wind, chemical, or hot air means, and not secured or attached to the ground or building.

Freestanding sign. A sign or advertising device which is wholly independent of a building or structure for support, usually anchored in the ground. Includes monument signs, pole signs, menu boards, and wayfinding signs. A freestanding sign may contain more than one sign face, and it is typically double-faced.

Hand-held sign. A sign affixed to, carried by, or physically or electronically controlled by a person. A kite used for advertising devices is a hand-held sign.

Holiday decoration. Signs or displays including lighting which are a non-permanent installation celebrating national, state, and local holidays, religious or cultural holidays, or other holiday seasons (also known as seasonal decorations).

Incidental sign. A sign, emblem, decal, or other message, designed and sized to be read only from close range (i.e., 5 feet or less), attached to or integrated into a device or structure more than 25 feet from the right-of-way of a road, and not readily legible from any public rights-of-way. Examples include business hours, directional and open/closed signs.

Inflatable sign. Any sign, apparatus, or balloon that is or can be filled with air or gas. This includes any three-dimensional ambient air-filled apparatus in the shape of a container, figure, or product. For purposes of this Article, inflatable signs and balloons are considered signs.

Interior sign. Any sign erected within a building, including product displays, more than two feet inside an exterior window within a business or establishment and which is not intended to be seen from outside the business or establishment in which the sign is located.



Monument sign. A freestanding sign in which the entire bottom of the sign face is in contact with a solid and continuous structure which is attached to the ground and made of brick, stone, or other material architecturally compatible with the principal building on the lot to which it pertains. (dimensions shown are illustrative only). Typically, a monument sign has a base at least 18 inches in height. Includes hanging monument signs, where a column is provided with a perpendicular projecting sign.

Mural. A picture or image (including but not limited to painted art) which is painted, constructed, or affixed directly onto a building wall, which may or may not contain text, logos, and/ or symbols.

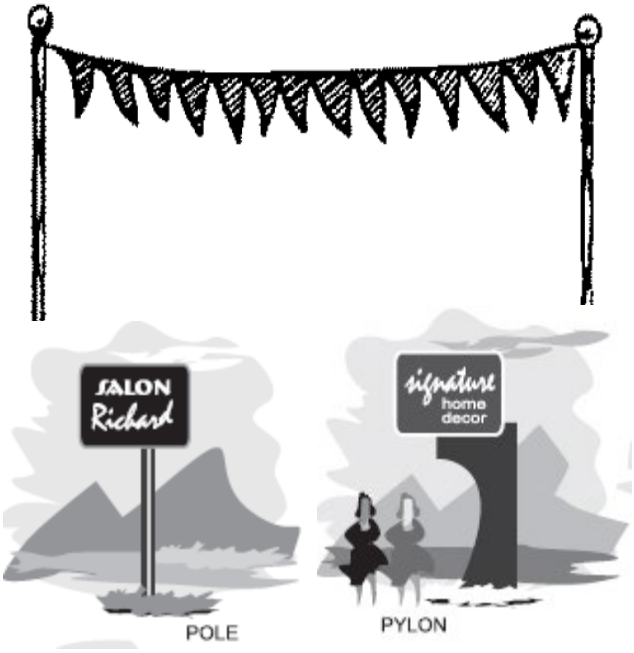
Multi-faced sign. A sign structure that contains two or more sign face surfaces that are located on different sides of the structure and are separated from each other at their nearest point by no more than three feet.

Multi-tenant development. A single office, commercial or industrial property that is designed or intended for occupancy by two or more businesses, or a multi-family residential development.

Nonconforming sign. A sign that was lawfully erected and maintained prior to the adoption, revision or amendment of this Unified Land Development Code, and which by reason of such adoption, revision or amendment fails to conform to all applicable regulations and restrictions of this Unified Land Development Code.

Official sign. Any sign placed by a governmental body, governmental agency, or public authority for a public purpose, erected and controlled by such governmental body or on its behalf, whether or not located within a public right-of-way; and signs erected by private individuals per federal, state, or local law requirements.

Pennant. A small, triangular or rectangular flag or multiples thereof, made of lightweight plastic, fabric, or other material, individually supported or attached to each other by means of a string, rope, or other material and meant to be stretched across or fastened to buildings, or between poles and/or structures, and which is designed to move in the wind. For purposes of this Article, pennants are signs and windblown devices. This term does not include a "banner" or a "flag" as defined and regulated by this Article.



Source: United States Sign Council. 2011.
Model Code for Regulation of On-Premise Signs.

Pole or pylon sign. A sign that is mounted on a freestanding pole or poles, columns, or similar support such that the bottom of the sign structure is not in contact with the ground along the entire portion of the sign face and there is open area underneath the sign face above the ground. A pole or pylon sign is distinguishable from a monument sign.

Portable sign. Any sign whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols (i.e., a changeable copy sign). Even if the wheels or supports of such sign are removed and the sign converted and attached, temporarily or permanently, to the ground or other structure, said sign shall remain a portable sign for purposes of this Article. An "A-frame" sign, defined separately, shall not be considered a portable sign for purposes of this Article.

Principal use ground sign. A notice or advertisement secured to the ground, which is permitted by this Article in conjunction with a principal use or principal building located on the property. For purposes of this Article, principal use ground signs are considered permanent signs.

Project entrance sign. A sign located at a discernible entrance into a particular subdivision, multi-family residential development, or office or industrial park. For purposes of this Article, project entrance signs are considered permanent signs.

Projecting sign. A sign affixed to a wall extending more than 18 inches from the surface of such wall, usually perpendicular to the wall surface. Includes blade signs.



Revolving sign. A sign that has the capability to revolve about an axis.

Roof sign. A sign projecting to a greater height than the front building wall, or any sign supported by or attached to a roof, including a sign painted on or adhered to a roof. A sign placed on the fascia portion of a mansard roof is not a roof sign.

Scoreboard. A sign contained within an athletic venue and which is directed so as to be visible to the attendees of an athletic event.

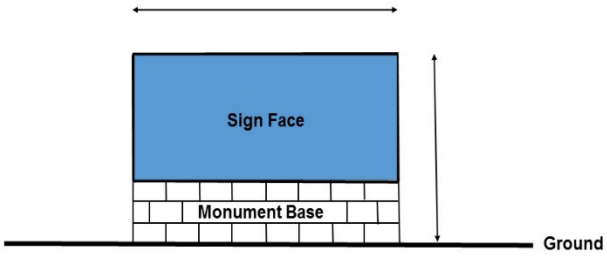
Sign. Any structure, display, or device that is used to advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, service, event, or location by any means, including words, letters,

figures, design characteristics, symbols, logos, fixtures, colors, movement, or illumination. The term "sign" shall specifically include but not be limited to "banners," "balloons," "flags," "pennants," "streamers," and "windblown devices". Furthermore, the term "sign" includes the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of the observers.

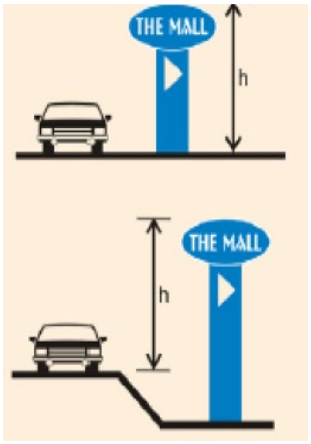
Sign face. That portion of the surface of a sign structure (area) where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign structure. All elements of a freestanding sign, including the sign face, background or decorative elements related to the presentation of the sign's message, and the structural supports or sign base.

Sign structure (total area) includes the areas of the sign face and all structural supports (monument base shown)



Sign height. The distance in vertical feet from the average grade at the base of the sign, or from the elevation of the adjacent public street to the highest point of any portion of the sign. Any earthen berms and elevated foundations supporting signs, signposts or other sign supports shall be included in the height of the sign.

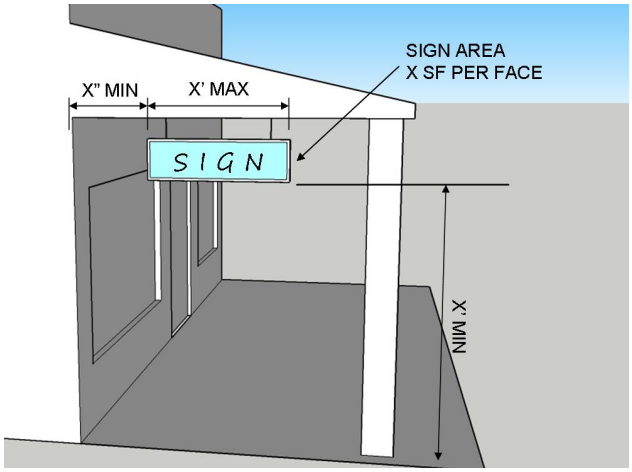


Source: United States Sign Council. 2011. *Model Code for Regulation of On-Premise Signs*.

Sign in need of maintenance. Any sign that includes any of the following or similar conditions as identified by the city: lettering or other elements of the sign have become detached or have fallen off the sign or become misaligned; painted surfaces on the sign or sign structure have begun to peel, flake over a significant portion of the sign, or have faded or oxidized to an extent that the sign no longer displays the message as originally intended; a significant number of the bricks, stones, or other materials on the structural base of a sign have become detached or have fallen off, or have become misaligned; or one or more illumination devices are not working and have not been replaced.

Streamer. A long, narrow strip of fabric or other material. A streamer is a "wind-blown device."

Suspended sign. A sign attached to the underside of a canopy, awning or the cover of a walkway or beneath a support extending from a building. This term does not include any freestanding signs.

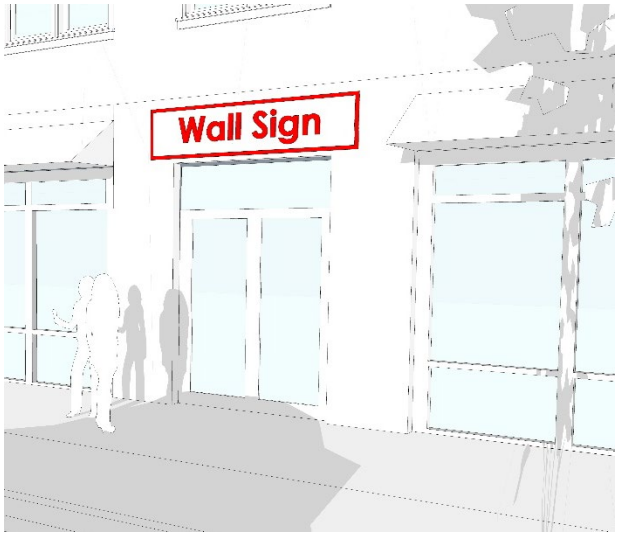


Temporary freestanding sign. A sign of a nonpermanent nature and erected for a limited duration. This term includes signs constructed from cardboard, coated paperboard, or corrugated plastic and which are either attached to a wooden post or stake in the ground, or set with a wire metal frame in the ground.

Traffic control sign. A sign erected by or under the regulation of the City or State, on private or public property, and which meets the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.

Uniform sign plan. Coordinated drawings and specifications that establish a unified design concept with regard to the location, materials, size, letter style, and color of all signs to be placed on a property or development.

Vehicular sign. Any sign placed, mounted, painted on or affixed to a motor vehicle, freight, flatbed or storage trailer or other conveyance when same are placed or parked in such a manner that can be viewed from the public right(s)-of-way; provided, however, that this definition shall not apply when (1) Such conveyances are actively being used to transport persons, goods or services in the normal course of business; or (2) such conveyances are actively being used for storage of construction materials for, and on the same parcel where a construction project for which building is underway and required permits have been issued. Signs on vehicles are permitted so long as the vehicle is currently being utilized for a properly licensed business and, whenever parked and not utilized for said business, is parked at a designated service/loading and unloading area or at the furthest-available parking space from the right-of-way. Alternatively, such a vehicle may be parked behind the business to which it relates if to do so minimizes the view of the portable sign by the public. Even if the wheels or supports of such sign are removed and the sign converted and attached, temporarily or permanently, to the ground or other structure, said sign shall remain a vehicular sign for purposes of this Article.



Wall sign. A single-sided sign with one visible face applied to or mounted to the wall or surface of a building or structure, in a parallel fashion, and which does not project more than 18 inches from the outside wall of such building or structure. Includes marquee signs and signs attached to a mansard roof.

Wind-blown device. Any device, that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by wind. Such devices include banners (except as may be specifically authorized), pennants, streamers, ribbons, or long narrow strips of fabric, plastic, or other pliable material designed to move in the wind. A "flag" is defined separately and is not considered a "windblown device" for purposes of this Article. See also "air-blown device," which is defined separately.

Window sign. A sign that is placed on a windowpane or a glass door and intended to be visible from the exterior of the building. Does not include displays interior to a building which show products or depict services sold on the premises.



Section 14-1-4. Applicability

(a) The regulations and requirements of this Article apply in the City of Gainesville to all signs that are or are intended to be viewed from a public right-of-way or from outdoor areas of public property.

(b) Such signs are allowed only in conformance with this Article.

(c) No sign may be erected, placed, established, painted, created, moved, or maintained except in conformance with this Article.

Section 14-1-5. Compliance with Other Laws

All signs shall comply with all applicable federal, state, county, and city laws and ordinances. Compliance with the terms of this Article shall not relieve any individual, corporation, or other entity of any other duty imposed by law. Where state sign law and/or regulations apply, and there is conflict or overlap with this ordinance, the more restrictive requirements shall govern.

CHAPTER 14-2 EXEMPTIONS AND PROHIBITIONS

Section 14-2-1. Exemptions

The following signs and devices are exempt from regulation by this Article:

(a) Beacons.

(b) Building markers and decorative or architectural features integral to buildings.

(c) Cemetery stones and markings of individual graves or burial plots.

(d) Holiday decorations, provided that they are removed within 15 days following the holiday to which they pertain.

(e) Incidental signs.

(f) Interior signs.

(g) Murals on building walls erected with permission of the governing body of the City of Gainesville.

(h) Official signs.

(i) Scoreboards that are part of a public or private recreational facility.

(j) Traffic control signs and devices, when installed within the right-of-way of a public street under the authority of the state or a local government or a private street, or traffic control signs and devices installed along driveways and in off-street parking lots, per the requirements of the City and consistent with the Manual on Uniform Traffic Control Devices.

Section 14-2-2. Display of Property Addresses

The display of street addresses is permitted without compliance with this Article. Building identification numbers on multi-tenant buildings which are essential to the location of such buildings are also permitted without compliance with this Article.

Section 14-2-3. Prohibited Signs

The following signs and advertising devices shall be prohibited within the City of Gainesville, unless otherwise specifically provided in this Article:

(a) Air-blown devices.

(b) Animated signs.

(c) Banners, except those used temporarily in association with an approved Special Event.

(d) Derelict signs.

(e) Discontinued signs.

(f) Feather banners.

(g) Flying signs.

(h) Inflatable signs, except those used temporarily in association with an approved Special Event.

(i) Pole or pylon signs, except as provided otherwise in Section 14-7-2.

(j) Portable signs.

(k) Revolving signs.

(l) Roof signs.

(m) Signs erected within a state or city right-of-way without the permission of the owner.

(n) Signs erected without the permission of the property owner.

(o) Signs with a color and/or shape that imitates, or could be mistaken for, an official traffic control sign, such as a red, octagonal sign or a yellow, triangular sign.

(p) Signs that obstruct any fire escape, window, door, or opening usable for fire prevention or suppression, or that prevent the free passage from one part of a roof to any other part thereof.

(q) Signs containing reflective elements that sparkle in the sunlight or otherwise simulate illumination during daylight hours or that contain luminous paint that glows in the dark.

(r) Signs containing:

(1) Any type of lighting that outlines, doors, or other parts of a building, canopy or structure with lighting; or

(2) Any other sign or lighting practice that is inconsistent with Chapter 14-4 of this ULDC.

(s) Signs attached to freestanding walls (including retaining walls) or fences or poles.

(t) Umbrellas used for advertising or with sign copy.

(u) Wind-blown devices.

CHAPTER 14-3 LOCATION AND PLACEMENT

Section 14-3-1. Generally

No sign shall be located, moved, placed, or maintained in any manner inconsistent with this Chapter.

Section 14-3-2. Right of Way

It shall be unlawful to affix or attach any material to a utility pole or light pole in a public right of way. No part of any sign shall be located in, over, or project into a local or state public right-of-way, except for the following:

(a) Wall or attached canopy signs otherwise complying with this Article, within the C-B zoning district.

(b) A-frame signs otherwise complying with this Article, within the C-B zoning district or Midland Overlay District.

(c) Banners attached to light or utility poles in a city right of way if authorized by the Governing Body of the City of Gainesville.

(d) Any other sign specifically authorized by the Governing Body of the City of Gainesville, which may include wayfinding and sign kiosk programs.

Section 14-3-3. Setback for Freestanding Signs

There shall be a minimum of 5 feet between any street right-of-way/front property line and the nearest edge of a freestanding sign; provided, however, that the Community Development Director may reduce or waive the setback requirement when issuing a sign permit, for good cause shown.

Section 14-3-4. Obstruction of Sight Visibility

(a) No sign shall be erected, placed, moved, or maintained where, because of its placement, it obstructs, obscures, impairs, or interferes with the view of motorists or pedestrians entering or exiting public and private access ways and driveways.

(b) The placement of freestanding signs will be examined during the permitting process, if applicable, to ensure that such signs are located outside of any sight visibility triangle required by this Unified Land Development Code.

Section 14-3-5. Obstruction of Visibility of Traffic or Public Signs

No sign shall be placed which obscures or otherwise interferes with the effectiveness of a traffic sign, signal, or device or official sign.

Section 14-3-6. Obstruction of Building Access

No sign shall be erected, located, or maintained in such a manner as to interfere with safe and free ingress and egress to any door, window, or emergency exit of any building or structure.

Section 14-3-7. Obstruction of Utilities

(a) No sign shall interfere with utilities, such as water mains and hydrants, sanitary sewerage, gas, electricity, and communications equipment or lines, nor interfere with natural or manmade storm water drainage facilities.

(b) No permanent or temporary ground sign shall be placed in a utility easement unless specifically authorized by the Director.

Section 14-3-8. Vertical Clearance

Projecting signs and suspended signs, where authorized by this Article, shall provide a minimum vertical clearance of 8 feet from ground level to the bottom of the sign in any other location.

Section 14-3-9. Obstruction of Tree Critical Root Zone

No freestanding sign, whether permanent or temporary, shall be installed on the ground within the critical root zone of an existing tree.

Section 14-3-10. Signs on Natural Objects

No sign shall be painted on or attached to trees, rocks, or any other natural features; provided however, that on property within R-I-A, R-I, and N-C zoning districts, a sign otherwise authorized by this Article and with an area of one square foot or less may be attached to a tree, rock, or other natural feature on private property.

Section 14-3-11. Signs on Benches or Bus Shelters

No sign shall be painted on or attached to a bench or bus shelter, unless specifically authorized by the governing body of the City of Gainesville.

Section 14-3-12. Signs Attached to Light Poles

No sign shall be attached to a light pole on private property.

Section 14-3-13. Signs on Fences or Freestanding Walls

No sign shall be attached to a fence or freestanding wall, except for the following:

(a) One identification plate not exceeding ¼ square foot of area may be affixed to any fence.

(b) This section does not prevent project entrance signs as authorized by this Article.

CHAPTER 14-4 ILLUMINATION

Section 14-4-1. Definitions Related to Illumination

(a) **Beacon**: A stationary or revolving light which flashes or projects illumination, single color or multi-colored, which is required or necessary under the safety regulations promulgated by the Federal Aviation Administration or similar agencies.

(b) **Candela**: The basic unit of measurement of light in SI (metric) units.

(c) **Candela per square meter (cd/m²)**: The SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.

(d) **Candle or candlepower**: Synonymous with Candela, but in English, not SI, terms.

(e) **Dissolve**: A mode of message transition on an electronic changeable copy sign accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the subsequent message.

(f) **Externally illuminated sign**: Any sign that is partially or completely illuminated at any time by an artificial light source that directly or indirectly illuminates the face of the sign from outside the sign structure.

(g) **Fade**: A mode of message transition on an electronic changeable copy sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

(h) **Flashing**: Any condition where artificial light is not maintained stationary or constant in intensity.

(i) **Fluorescent color**: A color that is intense, brilliantly colored and apparently giving off light, such as but not limited to day glow (day-glo) colors.

(j) **Foot candle**: An English unit of measurement of the amount of light falling upon a surface (illuminance). One foot candle is equal to one lumen per square foot. Can be measured by means of an illuminance meter.

(k) **Illuminance**: The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination”. Measured in foot candles (lumens/square foot) in the English system, and lux (lumens/square meter) in the SI (metric) system.

(l) **Illuminated sign**: A sign characterized by the use of artificial light, either projecting through its surface(s) (i.e., internally illuminated); or reflecting off its surface(s) (i.e., externally illuminated).

(m) **Internally illuminated sign**: A sign illuminated by an internal light source which is viewed through a transparent or translucent panel. An electronic changeable copy sign is an internally illuminated sign.

(n) **LED Sign**. Any sign or portion thereof that uses light emitting diode (LED) technology or other similar semi-conductor technology to produce an illuminated image, picture, or message of any kind whether the image, picture, or message is moving or stationary. This includes any sign that uses LED technology of any kind, whether conventional (using discrete LEDs), surface mounted (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro polymer (OEL), or any other similar technology. An LED sign is a changeable copy electronic sign.

(o) **Lux**: The SI (metric) unit for illuminance. One lux equals 0.093 foot candles.

(p) **Neon lighting:** Any sign that uses neon, argon, or any similar gas to illuminate transparent or translucent tubing or other materials.

(q) **Nit**: A standard unit of luminance; a measurement of direct light (i.e., looking directly at the light source), used to describe displays. A "nit" is an amount of emanating light equal to one candela per square meter (cd/m2).

(r) **Outlining**: A sign, display, or installation outlining windows, doors, or other portions of the building.

(s) **Scroll**: A mode of message transition on an electronic changeable copy sign in which the message appears to move vertically across the display surface.

(t) **Transition**: A visual effect used on an electronic changeable copy sign to change from one message to another.

(u) **Travel**: A mode of message transition on an electronic changeable copy sign, in which the message appears to move horizontally across the display surface.

Section 14-4-2. Compliance with Electrical Code

(a) No sign shall have exposed electrical wires.

(b) All electrical service to a sign shall be in compliance with the National Electrical Code adopted by city Code Section 16-1-3 and any other city code sections related to the regulation of electricity.

(c) An electrical permit shall be required for first-time electrical connections to signs.

Section 14-4-3. General Prohibitions

(a) The outline-lighting of windows and doors with strings of light bulbs, neon lights, LED lights or any form of lighting shall not be permitted, except as part of holiday decorations.

(b) It shall be unlawful to utilize strobe, laser, and search lights except for emergency or public safety operations.

(c) No sign shall be illuminated if it is located on a lot used exclusively for a single-family dwelling (including manufactured home), two-family dwelling (duplex), an agricultural use, or combination of agricultural and residential use.

(d) No temporary sign shall be illuminated.

(e) No incidental sign shall be illuminated.

(f) No sign in an R-I-A, R-I, N-C, R-II, O-I, or N-B district shall be internally illuminated (note: this requirement by definition prohibits electronic changeable copy signs in these zoning districts).

(g) A flag may be externally illuminated only if it is flown from a freestanding pole.

Section 14-4-4. Maximum Luminance

(a) Night-time. Signs that are authorized to be externally illuminated shall not exceed a maximum luminance level of 500 cd/m² or nits, regardless of the method of illumination, from apparent sunset until apparent sunrise, as determined by the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, for the specific geographic location and date.

(b) Daytime. Signs that are authorized to be externally illuminated shall not exceed a maximum luminance level of 5,000 cd/m² or nits, regardless of the method of illumination, from apparent sunrise to apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, for the specific geographic location and date.

(c) Dimmer Control. Electronic changeable copy signs, where permitted, must have an automatic phased proportional dimmer control, photocell or other light sensing device, or a scheduled dimming timer, or another approved device, which produces a distinct illumination change that reduces nighttime

brightness levels compared to daytime brightness levels. The applicant for any such electronic changeable copy sign shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified in this Chapter; end-user manipulation of pre-set levels shall not be permitted.

Section 14-4-5. Lighting of Awnings

Internally lit (including backlit) awnings are prohibited, except as may be specifically authorized by the Director as part of a uniform sign plan per Section 9-14-7-4.

Section 14-4-6. External Illumination Standard

Externally illuminated signs shall be lit by a steady stationary light of reasonable intensity, shielded and directed solely at the sign, so as not to cause glare or spill light into the road right-of-way or up into the sky.

CHAPTER 14-5 BASIC SIGN PERMISSIONS

Section 14-5-1. Principal Use Freestanding Sign, Single-Use

One principal use freestanding sign per property frontage is authorized for each developed property (i.e., excluding vacant properties) for a single use, except for single-family detached residences, two-family residences, and agricultural land uses, not to exceed the following:

Table 14-1: Sign Allowances for Single-use Freestanding Signs

	Zoning District					
	R-I-A, R-I, N-C, R-II*	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Maximum sign face area (sq. ft.)	24	25	54	64	32	64
Maximum sign structure area (sq. ft.)	32	38	76	96	48	96
Maximum height (ft.)	6	6	8	8	6	8
Table Notes: * These sign allowances are for non-single-family residential uses that are permitted outright or as a special use in these residential zoning districts.						

Section 14-5-2. Principal Use Freestanding Sign, More than One Use

Principal use freestanding signs are authorized for each property developed (i.e., excluding vacant properties) for more than one use or tenant, not to exceed the following requirements:

Table 14-2: Sign Allowances for Multi-tentant Freestanding Signs

	Zoning District					
	R-I-A, R-I, N-C, R-II	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Maximum number	N/A	1 per street frontage	1 per street frontage	1 per 200' of street frontage, maximum 3 per lot	1 per street frontage	1 per street frontage
Maximum sign face area (sq. ft.)	N/A	32	96	100	48	100
Maximum sign structure area (sq. ft.)	N/A	48	120	160	60	160
Maximum height (ft.)	N/A	6	10	12	10	12

Section 14-5-3. Accessory Freestanding Sign

(a) One accessory freestanding sign per property frontage shall be permitted for each lot used for commercial, industrial, institutional, residential dwelling, agricultural land use, and for each vacant property, not to exceed the following:

Table 14-3: Sign Allowances for Accessory Freestanding Signs

	Zoning District					
	R-I-A, R-I, N-C, R-II	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Accessory freestanding sign maximum sign face area (sq. ft.)	4	4	12	18	N/A	18
Accessory freestanding sign maximum height, single-ground sign (ft.)	4	4	6	6	N/A	6

(b) The Director may permit increases in area or height of one or more accessory freestanding signs as part of an approved uniform sign plan per Section 14-7-4.

Section 14-5-4. Wall Sign

Wall signage is authorized in accordance with this section.

(a) Wall signage is permitted in accordance with this section for two building walls only, unless otherwise authorized via a uniform sign plan per Section 14-7-4.

(b) For a building with only one tenant or owner, wall sign authorization shall be calculated based on the entire building frontage.

(c) For a building containing more than one business, establishment, or leasable space, wall signage allowances for each such business, establishment, or leasable space shall be calculated individually for each tenant space based on the amount of building frontage leased by that business or establishment and shall be the leased portion of the total building frontage.

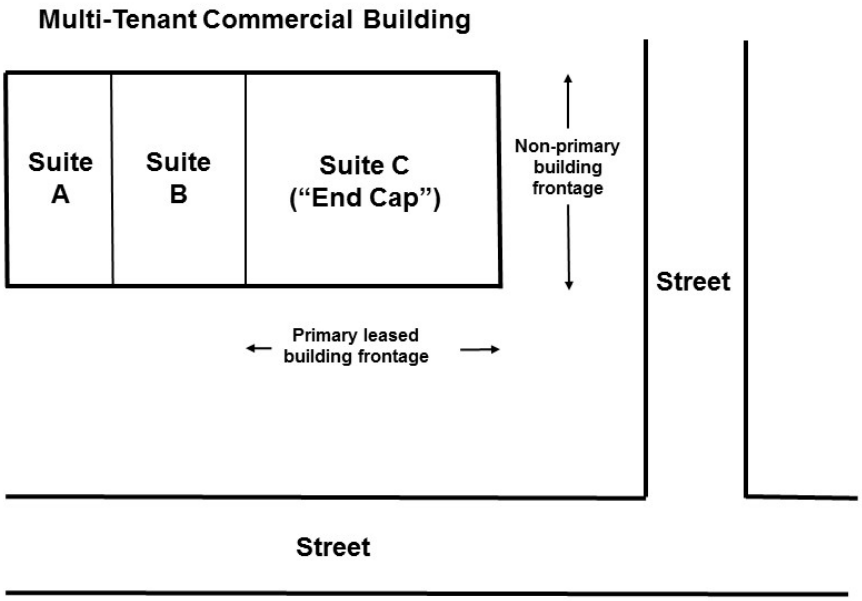
(d) Wall signs shall be mounted flush against the facade of the building adjacent to the front entryway of the unit, unless otherwise approved by the Director.

(e) Wall signs shall not exceed the following:

Table 14-4: Sign Allowances for Wall Signs

	Zoning District					
	R-I-A, R-I, N-C, R-II	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Maximum number per leased building frontage	N/A	N/A	1	1	1	1
Maximum sign area (sq. ft.) of all wall signs per building frontage	N/A	N/A	1 square foot for each linear foot of leased building frontage			
Maximum height	N/A	N/A	Wall signs shall not exceed the height of the building wall on which it is attached			

(f) When an establishment has two or more building frontages, wall signage on the second (non-primary) building wall shall be limited to 0.5 square feet for each linear foot of leased building frontage. For example, in the illustration below, Suite A and B are each allowed one wall sign, while Suite C is allowed one wall sign per building frontage, subject to the limitations of this Section 14-5-4.



(g) In addition to the sign area allowance of this Section, one additional square foot for each linear foot of leased building frontage of sign area is permitted if the wall sign is located on a building that is setback on the lot at least four times the distance of the required building setback.

(h) The Director may authorize more than one wall sign per leased building frontage, and/or an increase in sign area, as part of approval of a uniform sign plan per Section 14-7-4.

Section 14-5-5. Window Signs

Signs within windows and doors, except incidental signs exempt from the requirements of this Article, shall be permitted in nonresidential zoning districts, not to exceed 10% of any individual window and 50% of glass panes of any doors. No more than two windows and two doors for any establishment may be utilized for signage.

Section 14-5-6. Awning Signs

(a) Sign shall not extend outside the awning.

(b) Only awnings over ground story doors or windows may contain signs.

(c) Awnings that are internally or backlit through translucent materials are prohibited.

(d) Signs may be on the front valance, the side valance, or on the sloping face of the awning.

(e) Signs on awnings attached to a building face shall be regulated as wall signs, except that an additional awning sign may be authorized per design review in the C-B zoning district.

Section 14-5-7. Project Entrance Sign

(a) Applicability. This section shall not apply to a lot which is authorized to have a principal use freestanding sign. This section shall apply to lots at the intersection of a public right of way and a public or private

street or driveway serving any of the following: a subdivision of detached, single-family homes; an office, commercial or industrial subdivision.

(b) One two-sided project entrance sign allowance. Any development meeting the applicability of subsection "a" above shall be permitted one freestanding sign (which may be two sided) at each entrance to the subdivision or complex, subject to the following:

Table 14-5: Sign Allowance for Project Entrance Signs

	Zoning District					
	R-I-A, R-I, N-C, R-II	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Freestanding sign maximum sign face area (sq. ft.)	32	32	64	96	N/A	96
Freestanding sign maximum height, single-ground sign (ft.)	8	8	10	10	N/A	12

(c) Two, one-sided project entrance sign allowance. In lieu of a single project entrance sign allowed per this section, any meeting the applicability of subsection "a" above shall be permitted two, one-sided freestanding signs at each entrance, integrated into an entrance monument wall, one on each side of said entrance, provided that the signs together do not exceed the area allowances for a single project entrance sign area limitations of this section.

CHAPTER 14-6 SUPPLEMENTAL SIGNAGE ALLOWANCES

Section 14-6-1. Sign During Sale or Construction

This section authorizes temporary signage during the time a lot, building, or tenant space is for sale, lease, rent, or under construction, as follows, subject to the area and other limitations of this section. Such signs authorized in this section may be placed on a site as specified until the property or premises is sold, leased, or rented, in which case the sign is no longer authorized.

(a) Vacant lot. During the time a vacant lot is for sale, lease, rent, or under construction, one freestanding sign per property frontage shall be authorized on the lot.

(b) Building. During the time a building on a lot is for sale, lease, rent, or under construction, one freestanding sign per property frontage, or one wall sign per building frontage, or one window sign shall be authorized.

(c) Multiple buildings or tenant spaces. During the time a development with more than one building, or more than one leasable spaces within one or more buildings, has tenant spaces for sale, lease, rent, or under construction, one freestanding sign shall be authorized on the lot. In addition, either one wall sign shall be authorized on the building with tenant space available, or one window sign shall be authorized within the building window of the tenant space available.

Table 14-6: Sign Allowances for Temporary Sale or Construction Signs

Signs During Sale or Construction	Zoning District					
	R-I-A, R-I, N-C, R-II	R-O	O-I, N-B	R-B, G-B	C-B	L-I, H-I
Freestanding sign maximum sign face area (sq. ft.)	4	12	24	48	32	48
Freestanding sign maximum height (ft.)	4	4	6	8	8	8
Wall sign (sq. ft.)	4	12	24	48	32	48
Window sign (% of total window area)	25%	25%	25%	25%	25%	25%

Section 14-6-2. A-frame Sign

(a) An institution or establishment is authorized to display, during the institution or establishment's hours of operations, one A-frame sign, not exceeding three feet in height or six square feet in total area in the following locations:

(1) On a public sidewalk in the C-B zoning district; or

(2) On a public sidewalk in the Midland Overlay; or

(3) In commercial zoning districts which have a private sidewalk or private walkway in front of the building located at least 40 feet from a public right of way.

(b) No such A-frame sign shall obstruct pedestrian or handicapped accessibility movements.

(c) Any sign authorized by this section shall be removed from the sidewalk or walkway when the institution or establishment is not open.

Section 14-6-3. Banner, Temporary

(a) Interim for an establishment. The occupant or prospective occupant of a building or leased space may erect a temporary banner not exceeding 32 square feet in area, prior to the issuance of a certificate of occupancy, provided that the occupant or prospective occupant has applied for a sign permit for permanent wall sign (or if permitted, permanent freestanding sign) for the building or leased space. The temporary banner may be affixed to a building wall, or if properly secured be affixed to an existing sign or to the ground. The temporary banner shall not remain in place for more than 60 days and must be removed once the permanent wall sign is erected.

(b) Temporary for residential subdivision. On any lot at the entrance to a subdivision of detached, single-family lots which has a lawful project entrance sign, one temporary banner not exceeding 16 square feet may be attached to the face of the project entrance sign or secured to the ground, during a time period of 40 days before and 40 days after the official date of a public high school graduation in the locality.

(c) General restrictions. Banners shall not be hung as under-canopy signs, flown as flags, or attached to or used as any other form of sign unless specifically provided otherwise in this Article.

Section 14-6-4. Billboards

A billboard, as defined, is allowed subject to compliance with the following requirements:

(a) The sign must be located in G-B, L-I, or H-I zoning districts within 300 feet of a State, U.S. or Interstate numbered highway.

(b) In the G-B district, the area of the sign face shall not exceed 80 square feet. In the L-I and H-I districts, the area of the sign face shall not exceed 240 square feet. In each of the districts, the height of the sign shall not exceed 25 feet.

(c) All portions of the billboard shall be located in accordance with the principal building setback requirements of the zoning district in which it is located.

(d) The billboard shall not be located within 1,000 feet of any other billboard or within 500 feet of a residential zoning district. Distance measurements shall be made horizontally in all directions from the nearest edge of the sign face.

(e) The billboard may not be located on or over any building.

(f) No buildings, structures, parking, or appurtenances may be constructed within the fall zone of a billboard, except that when the fall zone extends beyond the property line of the parcel on which the billboard is located, then buildings, structures, parking, or appurtenances shall not be restricted on the adjacent property.

(g) No billboard shall be constructed in a location where the fall zone of the proposed billboard includes any buildings, structures, parking, or appurtenances.

(h) Billboards located near expressway interchanges shall be limited as follows:

(1) No more than one billboard may be located in each quadrant of the interchange.

(2) Such billboards shall be restricted to an area in each quadrant 1,200 feet long beginning 500 feet from the road that crosses the expressway or 500 feet beyond the point where the pavement begins to widen on the main travelway of the expressway to accommodate an exit or entrance ramp, whichever is farther from the interchange.

(i) All billboards visible from or within 660 feet of a U.S. or State numbered highway shall comply with all requirements of the State of Georgia.

A site plan prepared by a registered land surveyor, architect or engineer shall be submitted with all billboard applications. The site plan shall include a boundary survey of the property, the exact location of the proposed billboard, and certification that all dimensional and distance requirements of this chapter are met.

Section 14-6-5. Canopy Signs

Freestanding canopies covering accessory uses or structures on a commercial or industrial lot shall be permitted one attached sign on each side of the freestanding canopy facing a street, not to exceed one-quarter (1/4) square foot per linear frontage of canopy per individual canopy sign.

Section 14-6-6. Changeable Copy

(a) Changeable copy electronic signs are not permitted within R-I-A, R-I, N-C, R-II, O-I, or N-B districts.

(b) No more than one changeable copy electronic sign shall be permitted for any single lot.

(c) Changeable copy shall be authorized to be incorporated into a principal use, monument (freestanding) sign. A changeable copy electronic price changer sign may be permitted on no more than two sides of a fuel canopy in lieu of a principal use, monument (freestanding) sign.

(d) Changeable copy shall not be incorporated into an existing billboard.

(e) Each message shall remain fixed for at least 10 seconds.

(f) There shall be a transition time of no more than 2 seconds between different messages for electronic changeable copy signs and no more than 3 seconds for mechanical changeable copy signs. Messages that dissolve or fade during transition time shall be permitted.

(g) Messages shall not consist of video, and messages shall not flash, blink, vary in light intensity, or travel, scroll, or behave in any other way which constitutes or implies motion or movement, except as specifically provided in this section during transition time.

(h) Changeable copy electronic signs shall include a default designed to freeze a display in one still position if a malfunction occurs.

(i) Changeable copy electronic signs shall not exceed 20 square feet in area.

Section 14-6-7. Drive-Through Lane Sign

Drive-through lanes serving a restaurant may have a maximum of two display boards, each not exceeding 6 feet in height or 36 square feet in area.

Section 14-6-8. Flags

Any residence, establishment, or institution may display as many as three flags, per lot, when displayed in accordance with the placement, height, and area requirements of this section. Flags may be displayed on a freestanding pole, projecting from a building or door or placed in a window as provided in this Section. Flags shall not be ground-mounted or affixed to utility poles, light poles, or vehicles. Flags must be kept in good condition.

(a) A flag may be displayed from a purpose-built, professionally fabricated, freestanding pole not to exceed a height of 30 feet. An individual flag flown from such a pole shall not exceed an area of 40 square feet.

(b) Flags may be flown from a metal or wooden pole attached to a bracket projecting from the side of a building or doorframe. The pole projecting from a building shall not exceed 6 feet in length. The flag flying from such pole shall not exceed an area of 15 square feet.

(c) Flags may be hung in the window of any non-residential property. The area of the flag is subject to the area limitations for window signage in Sec. 9-14-5-4.

Section 14-6-9. Special Temporary Outdoor Event Signs

(a) Special temporary event signage shall be authorized upon issuance of a permit for special temporary outdoor event pursuant to Chapter 9-9-11-3 of this ULDC, subject to compliance with this Section.

(b) Notwithstanding the prohibitions specified in this Article, at the discretion of the applicant, any one of the following signs and advertising devices may be applied for as part of a special temporary event and approved by the Community and Economic Development Department:

(1) One banner, not exceeding 32 square feet in area and 12 feet in height.

(2) No more than two additional, temporary freestanding signs not exceeding 4 square feet each or a height of 2 feet (excludes feather banners).

(3) One or more inflatable signs not to exceeding a total of 12 feet in height. The Director may authorize the placement of a temporary inflatable sign on the roof of a building, provided that such sign shall not to exceed the maximum building height allowance for the zoning district in which the sign is located.

(4) A combination of these permissions approved by the Community and Economic Development Department that is the functional equivalent in terms of advertising area.

(c) Signage shall be limited to a total of 60 days a calendar year for the same business or organization.

(d) Signage permitted pursuant to this Section shall not be illuminated.

Section 14-6-10. Suspended and Projecting Signs

Suspended or projecting signs are allowed in the C-B district and the Midland Overlay subject to the following:

(a) Suspended signs shall not exceed 6 square feet in area.

(b) Suspended signs shall not be illuminated.

(c) Projecting signs shall not exceed the lessor of:

(1) 18 square feet in area; or

(2) An area equal to half the vertical height of the building wall.

(d) Suspended or projecting signs shall provide a minimum clearance of 8 feet from the ground level to the bottom pf the sign per Section 14-3-8.

(e) The Director may authorize the use of suspended or projecting signs in commercial zoning districts as a part of approving a uniform sign plan per Section 14-7-4.

CHAPTER 14-7 INTERPRETATIONS, MODIFICATIONS AND VARIANCES

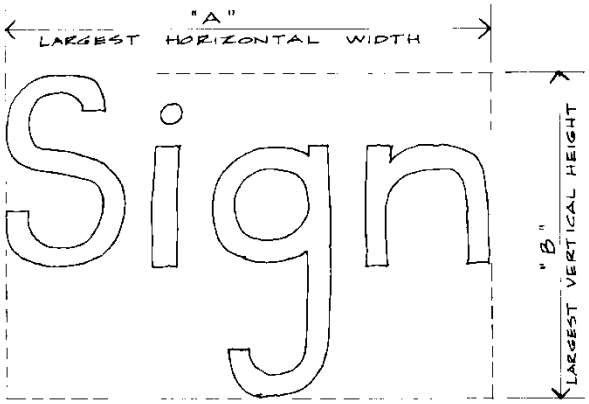
Section 14-7-1. Computation of Sign Face and Sign Structure Areas

The area of a sign face and sign structure shall be computed as follows:

(a) The area of a "sign face" shall be computed as the area within the smallest rectangle enclosing the limits of a sign face, or the combination of the areas of all such rectangles delimiting each sign face module, together with any material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.

(b) The computation of the area of a sign face shall not include the structure, supports or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any message or idea and are purely structural or decorative in nature, other than those portions contained within the rectangle that delimits the sign face or a sign face module.

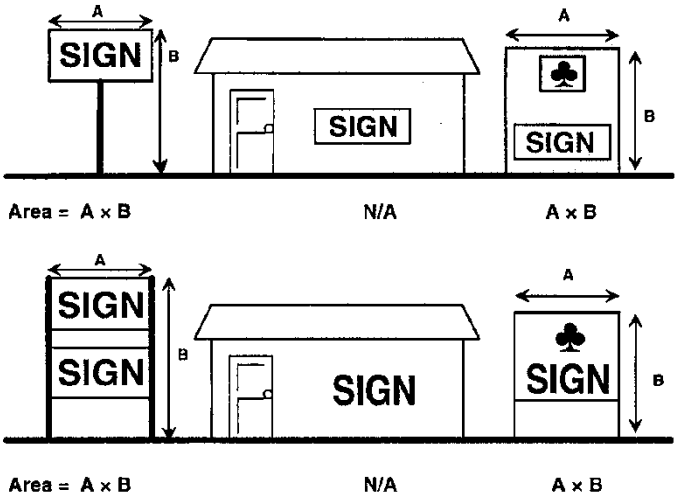
(c) Any sign on which the words, letters, figures, symbols, logos, fixtures, colors, or other design elements routinely change or are intended to be changed from time to time, the sign face area shall include the entire area within which any words, letters, figures, symbols, logos, fixtures, colors, or other design elements may be placed, together with any material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the freestanding structure or building face upon which it is placed.



Examples of Sign Face Area Measurements

(d) The area of a sign structure of a freestanding sign shall be computed as the area within the sign face plus all portions of the sign structure and all open or solid areas within the total area of the sign structure (i.e., tallest height x widest width).

(e) For multi-faced signs, when the sign face surfaces are parallel (back-to-back), or where the interior angle formed by the faces is 45 degrees or less, the area of the sign shall be taken as the area on the largest side. For all other multi-faced signs, the area of the sign shall be the total area on all sides that can be viewed at one time from any angle.



Examples of Sign Structure Area Measurements

Section 14-7-2. Modification of Monument Signage Requirement

The Director, during design review of a sign application, is authorized to modify the strict terms of this Article as they pertain to monument signs. For good cause shown (including but not limited to equal or better aesthetics and compatibility with the building architecture or the character of the district in which the sign is located), the Director may authorize a pylon or pole sign (see definition in Chapter 14-2).

Section 14-7-3. Signs in Planned Unit Development (PUD) Zoning Districts

For signs in the PUD zoning district each development shall conform to the sign regulations established as part of the zoning approval for the Planned Development. If no such regulations exist, each portion of a Planned Development existing on the effective date of this ULDC shall conform to the regulations of this Article for the zoning district most comparable to that portion of the Planned Development, as determined by the Director.

Section 14-7-4. Uniform Sign Plans

(a) A uniform sign plan is required for any multi-tenant development, including mixed-use and master planned residential developments, before any sign may be erected on the property. The intent of this Section is to provide for compatibility of all signs within a particular development so that they conform to certain physical characteristics such as color, font, design of sign face, sign face module, sign structure, etc.

(b) Modifications to the restrictions on signage for a specific property or development may be requested for administrative approval by submitting to the Director a uniform sign plan for review and processing. The uniform sign plan shall not be considered or used as an alternative to the strict regulations of this Article, except that building sign requirements may be modified pursuant to a uniform sign plan for good cause shown and greater visual coherence and coordination within the development.

(c) Uniform sign plans shall at a minimum consist of the following:

(1) Drawings and specifications as may be required to clearly illustrate the location, materials, size, letter style, and color of all signs to be placed as freestanding and building signs within the development.

(2) Design standards such that signs of a similar type and function within the development shall have a consistency of size, lettering style, color scheme, and construction materials to present a unified design concept while respecting the differences between tenant types and occupancies.

(d) Following approval by the Director, a uniform sign plan shall be binding on the owner, and any lessees, subtenants, purchasers, or other occupants, until or unless the uniform sign plan is replaced with another approved uniform sign plan or the uniform sign plan is repealed. In such cases the strict terms of this Article shall apply.

Section 14-7-5. Variances

(a) A property owner or sign owner may apply for a variance from the provisions of this Article.

(b) The application shall be accompanied by an elevation drawing and/or plot plan, drawn to scale, showing the dimensions and arrangement of the proposed sign. An inventory of signs and sign areas and heights existing on the property shall also be submitted. The Community and Economic Development Department may require other information about the variance requested and its relationship to the surrounding properties. Variance applications shall be accompanied by a fee as established by resolution of the governing body of the City of Gainesville.

(c) Applications to vary the sign regulations in this article shall be filed, considered and decided subject to the procedures and notice requirements of Chapter 18-6 of this Unified Land Development Code.

CHAPTER 14-8 NONCONFORMING SIGNS

Section 14-8-1. Nonconforming Signs

(a) A wall or freestanding sign that lawfully existed on the effective date of this ULDC may continue to be used, except that the nonconforming sign shall not be:

(1) Moved to another location on the site; or

(2) Replaced by another nonconforming sign; or

(3) Enlarged or altered in a way that increases its nonconformity or that adds value to said sign.

(b) A nonconforming freestanding or wall sign shall not be reused for a new business or establishment. This includes a prohibition against the replacement of a sign face module for a new business on a sign or sign structure that exceeds the maximum area or height requirements established by this Article or otherwise does not conform with the requirements of this Article. This paragraph does not apply to:

(1) Nonconforming billboards; or

(2) A wall or freestanding sign for an established business which undergoes a change of ownership.

(c) The addition of changeable copy to any nonconforming freestanding sign is prohibited.

(d) Minor repairs and maintenance of nonconforming signs shall be permitted in accordance with Chapter 14-9; provided, however, that no change in the shape or size of a nonconforming sign shall be permitted except to make the sign comply with the requirements of this Article. In no case shall a nonconforming sign be repaired, rebuilt, replaced, moved, or altered after damage exceeding 50% of the value of the sign.

Section 14-8-2. Sign Limitations When Nonconforming Sign Exists

No sign or advertising device shall be erected for the same establishment on the same lot with an existing nonconforming sign until the nonconforming sign has been removed or made to conform to the provisions of this Article. Existing, nonconforming billboards are not subject to the requirements of this Section.

CHAPTER 14-9 MAINTENANCE, ENFORCEMENT, AND REMOVAL

Section 14-9-1. Sign Maintenance

All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair and, unless constructed of galvanized or noncorrosive metal, shall be given a protective coating as necessary to maintain a clean appearance and safe condition.

Section 14-9-2. Situations Where Maintenance is Required

Upon discovery of a sign in need of maintenance, the Director or other administrative official responsible for administration of this ULDC shall give written notice to the owner of the sign or the owner of the property on which the sign is located if the owner of the sign itself cannot be determined. Said notice shall state the item or items requiring repair or maintenance. The owner shall have 30 days in which to repair or maintain the sign before a citation is issued. If the owner has failed to make repairs or the necessary maintenance within that time, the enforcement officer shall initiate enforcement proceedings as required to cure violation of this Article. Situations constituting the need for maintenance include but are not limited to the following:

(a) Lettering or other elements of the sign have become detached or have fallen off the sign or become misaligned.

(b) Painted surfaces on the sign or sign structure have begun to peel, flake over a significant portion of the sign, or have faded or oxidized to an extent that the sign no longer displays the message as originally intended.

(c) A significant number of the bricks, stones, or other materials on the structural base of a sign have become detached or have fallen off, or have become misaligned.

(d) Other similar conditions of disrepair or lack of maintenance as determined by the Director.

(e) For lighted signs, one or more illumination devices are not working and have not been replaced.

Section 14-9-3. Removal of Certain Signs

(a) Signs in the right of way. As authorized in O.C.G.A. 32-6-51, any sign, signal, device, or other structure erected, placed, or maintained on the dedicated right of way of any public road in violation of this Article is declared to be a public nuisance, and the officials having jurisdiction of the public road affected may remove or direct the removal of the same.

(b) Unlawful temporary signs. Temporary signs erected in violation of this Article may constitute a safety hazard and are subject to being removed without notice. Additionally, if such signs are erected unlawfully, or in improper areas, or beyond the permissible time frame, they are subject to removal by the Director or administrative official responsible for administration of this ULDC, without notice.

(c) Unlawful signs of a more permanent nature. Except as provided in paragraph “a” of this Section, if any sign is installed, erected, or constructed in violation of this Article, the owner or person or firm maintaining the sign shall, upon notice either written or verbal from the Director or administrative official responsible for administration of this ULDC, remove such prohibited signs immediately. Any such sign not removed within the time period allotted from the written notice, may be removed by the City, and the City of Gainesville shall have the right to place a lien on the property in accordance with Section 106.3 of the International Property Maintenance Code adopted in City Code Section 9-16-1-1.

(d) Derelict signs. Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of Director or administrative official responsible for administration of this ULDC, the owner or person or firm maintaining the sign shall, upon written notice from said enforcement officer, immediately in the case of immediate danger and in any other case within 10 days, remove such sign or secure it in a manner approved by the enforcement officer. Any such sign not removed or secured within 10 days from the

written notice may be removed by the City, and the City of Gainesville shall have the right to place a lien on the property in accordance with Section 106.3 of the International Property Maintenance Code adopted in City Code Section 9-16-1-1

(e) Nonconforming signs that cannot be made to conform to this Article. A nonconforming freestanding or building sign shall be removed within 90 days after the business or establishment to which the sign initially pertained ceases to operate at the subject location. This paragraph does not apply to billboards.

(f) New signage proposed where a discontinued sign exists. No new sign shall be permitted to be erected on the same property until the discontinued sign or nonconforming sign, including its supports, has been removed or is converted to a lawfully conforming sign, except as otherwise provided by this Section. This paragraph does not apply to billboards.

(g) Change or removal of discontinued signs. When a property owner has a lawful and conforming freestanding or building sign that no longer is used by a business or establishment, and the owner desires to retain said sign, this section shall apply in order to retain said freestanding sign as a lawful sign and to avoid it being deemed a discontinued sign. If a principal use which permitted a freestanding or wall sign no longer exists on the site of said sign, and said sign contains a sign face that is in the form of a removable sign face module, the removable sign face module containing advertising shall be removed and replaced with a panel of like or similar appearance without advertising until another use is lawfully established and principal use or wall sign is lawfully erected. If the subject sign face contains a sign copy area that is not removable, then the said sign shall be removed or the copy area shall be painted over to conceal the advertising.

CHAPTER 14-10 CONSTRUCTION, PERMISSIONS AND PERMITS

Section 14-10-1. Building Permit and Conformance to Codes

Whether or not required by the building code, a building permit shall be required and must be obtained from the Building Department prior to installation or placement of all the following:

(a) Permanent freestanding signs.

(b) Projecting signs.

(c) Suspended signs.

(d) Wall signs.

(e) Billboards.

Prior to permit approval, design review in accordance with Article 8 of the Unified Land Development Code shall be required to be accomplished. If plans are required for issuance of a building permit for a sign, the plans shall be certified as to conformance with all structural and wind-load resistive standards of the Building Code adopted by Section 16-1-2 by a structural engineer registered in the State of Georgia, or be prepared using standard drawings prepared by a structural engineer or other qualified professional meeting or exceeding all requirements of the Building Code adopted by Section 16-1-2.

Section 14-10-2. Composition and Construction Materials

(a) All permanent principal use freestanding signs and project entrance signs shall be required to be monument signs, except as may be authorized otherwise by the Community Development Director per Section 14-7-2 of this Article.

(b) Sign Materials.

(1) Exposed surfaces of signs must be constructed of or appear to be constructed of metal, glass, stone, concrete, brick, cloth, or wood, or similar approved material. If synthetic materials are authorized, they shall have the same finished appearance as the materials specified here.

(2) Sandblasted wood signs are not prohibited but may or may not be considered appropriate.

(3) Plywood or unfinished wood is not an appropriate material for signs and shall not be permitted.

(4) Temporary signs shall be made of metal, plastic, laminated cardboard, or some other durable and waterproof material. No such sign shall be made of paper.

(5) The composition of any sign in the Historic Preservation Overlay Zone may be restricted or regulated by the Historic Preservation Commission.

Section 14-10-3. Sign Approval in Historic Preservation Overlay Zone

Signs located in the Historic Preservation Overlay established by Chapter 7-7 require a Certificate of Appropriateness to be issued pursuant to Chapter 19-3 of this ULDC. Within the Historic Preservation Overlay no freestanding or building sign shall be erected or installed unless sign has been approved by the Gainesville Historic Preservation Commission, except as specifically provided otherwise in this Section.

In acting on applications involving sign approvals, the Historic Preservation Commission shall consider the criteria established for the issuance of certificates of appropriateness, and adopted design guidelines for signs, if any. In addition, the Historic Preservation Commission may consider the following, which shall not be limiting, in issuing certificates of appropriateness for signs and may use these criteria in determining whether to approve, deny, or modify said signs:

(a) The sign with its overall design makes a positive contribution to the general appearance of the street and area in which it is located.

(b) The scale, size, and shape of the sign are proportional to the building on which they are placed or to which it pertains and the area in which it is located. To this end, the Historic Preservation Commission may find that a sign is out of character with the area or not proportional to the building, activity or use and may work with the applicant to reduce the scale, size or shape or placement of the sign or signs.

(c) The sign does not obscure architectural features of the building, and the design of the sign is integrated with the design of the building.

(d) The sign is designed for and directed toward pedestrians rather than to vehicular traffic so that it can be easily and comfortably read standing adjacent to the business, activity, or use.

(e) Signage, particularly freestanding principal signs, shall be simple in design and draw upon the architectural elements of the principal building.

(1) If the sign proposed is a wall sign, it must establish an appropriate rhythm to the facade.

(2) The proposed sign shall be composed of materials that are compatible with the materials of the building facade where it is placed or to which it pertains.

(3) Design, lettering, and composition of the sign must be compatible with the building.

(4) Lighting shall be indirect only, unless otherwise approved as part of a Certificate of Appropriateness granted by the Historic Preservation Commission.



These signs block building elements and create a chaotic image



These signs complement the building form and create a more orderly appearance



Wall signs of consistent size and placement establish facade rhythm.

The Historic Preservation Commission may approve design guidelines and examples of appropriate signs. All such approved design guidelines and examples of appropriate signs shall be maintained on file with the Community and Economic Development Department and be made available to applicants for signs in the Historic Preservation Overlay Zone. If such guidelines are examples are adopted, and a sign within the Historic Preservation Overlay Zone is found by the Director to be consistent with said guidelines or examples of appropriate signs, the Director may issue approval of a Certificate of Appropriateness as a minor work project without the need for review and approval by the Historic Preservation Commission. In acting on applications involving sign approvals, the Director shall consider the criteria established for the issuance of certificates of appropriateness, adopted design guidelines for signs, and the criteria established in this Section.

Section 14-10-4. Sign Compliance Verification Letter

Except for signs that require a building permit or a Certificate of Appropriateness under the terms of this Chapter, no additional approval shall be required to erect a sign. However, property owners who want to ensure compliance with the terms of this Article may apply for and subject to a reasonable fee as may be established from time to time by the Governing Body and the Community Development Department may issue a written sign compliance verification letter. The Department shall have 10 calendar days from the date a complete request was received to issue a sign compliance verification letter.

ARTICLE 15 DEVELOPMENT IMPACT FEES

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CHAPTER 15-1 GENERAL PROVISIONS

Section 15-1-1. Legislative Findings

The City Council of the City of Gainesville has considered the feasibility of imposing development impact fees and finds, determines, and declares that:

(a) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized the City of Gainesville to enact development impact fees;

(b) The City of Gainesville established a Development Impact Fee Advisory Committee pursuant to the Georgia Development Impact Fee Act, Georgia Code Title 36-71-5, and that Committee has served in an advisory capacity and assisted and advised the City of Gainesville with regard to the development and adoption of this development impact fee ordinance;

(c) The City of Gainesville Comprehensive Plan contains within it Land Use Assumptions, a Capital Improvement Element for Public Safety and Parks and Recreation Impact Fees, and the establishment of a level of service standard for public safety and park and recreation capital facilities for the planning horizon to 2026; and the City of Gainesville Comprehensive Plan, including the amendment to include a Capital Improvement Element for Public Safety and Parks and Recreation Impact Fees, has been submitted to the Georgia Mountains Regional Development Center and determined by the Georgia Department of Community Affairs to be in compliance with the rules of the Georgia Department of Community Affairs, Chapter 110-12-2, Development Impact Fee Compliance Requirements;

(d) The City of Gainesville must expand its public safety and parks and recreation capital facilities to maintain the current level of service established in the City of Gainesville Comprehensive Plan if new development is to be accommodated without decreasing its adopted level of service standards. This must be done to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the City of Gainesville, Georgia;

(e) The imposition of development impact fees is a preferred method of ensuring the availability of capital facilities necessary to accommodate new development;

(f) Each of the types of land development described in this Article will create a need for the construction, equipping, or expansion of the City of Gainesville's public safety and park and recreation capital facilities;

(g) The fees established by this Article are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional public safety and parks and recreation facilities necessitated by the new land developments for which the fees are levied;

(h) The report entitled "A Report on Public Safety and Park & Recreational Development Impact Fees Prepared for Gainesville, Georgia," dated March 1, 2006, and revised June 4, 2006, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional public safety and parks and recreation improvements in the City of Gainesville.

Section 15-1-2. Short Title and Applicability

(a) This Article shall be known and may be cited as the City of Gainesville Development Impact Fee Ordinance.

(b) This Article shall apply throughout the incorporated area of the City of Gainesville.

Section 15-1-3. Intents and Purposes

(a) This Article is intended to assist in the implementation of the City of Gainesville's Comprehensive Plan.

(b) The purpose of this Article is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public safety and parks and recreation in the City of Gainesville.

(c) This Article is intended to comply fully with each and every relevant provision of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, and shall be interpreted and implemented to so comply.

Section 15-1-4. Rules of Construction

The following provisions regarding interpretation are hereby adopted and shall be applied to this Article. Where the provisions of this Section conflict with interpretations specified in Chapter 2-1 of this Unified Land Development Code, the rules of construction of this Section shall control, unless the context clearly indicates otherwise.

(a) The provisions of this Article shall be liberally construed so as to effectively carry out its purpose to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the City of Gainesville, Georgia;

(b) For the purposes of administration and enforcement of this Article, unless otherwise stated in this Article, the following rules of construction shall apply to the text of this Article:

(1) In case of any difference of meaning or implication between the text of this Article and any caption, illustration, summary table, or illustrative table, the text shall control.

(2) The words "shall" or "must" are always mandatory and not discretionary; the word "may" is permissive.

(3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

(5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

i. "And" indicates that all the connected terms, conditions, provisions or events shall apply.

ii. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

iii. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 15-1-5. Definitions

The following definitions are hereby adopted and shall be applied to this Article. Where the definitions of this Section conflict with terms defined in Chapter 2-2 of this Unified Land Development Code, the definitions of this Section shall control, unless the context clearly indicates otherwise.

Applicant. A person applying for the issuance of a building permit.

Building permit. The approval issued by the City of Gainesville that authorizes the construction or permanent placement of a building, dwelling or other structure on a site.

Capital equipment. Buildings, vehicles, weapons, and communications equipment, all with an expected use life of ten years or more.

Capital improvement. An improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.

Developer. Any person or legal entity undertaking development.

Development. Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, any of which creates additional demand and need for public safety facilities and parks and recreation facilities.

Development approval. Any written authorization from the City of Gainesville which authorizes the commencement of construction.

Development impact fee. A payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of public improvements needed to serve new growth and development.

Encumber. To legally obligate by contract or otherwise commit to use by appropriation or other official act of the City of Gainesville.

Floor area. Floor area shall have the same meaning as in the Building Code of the City of Gainesville.

Impact Fee Administrator. The City of Gainesville Director of Community and Economic Development or their designee.

Present value. The current value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

Project. A particular development on an identified parcel of land.

Project improvements. Site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement and the physical location of the improvement on site or off site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities approved by the governing body of the municipality or county shall be considered a project improvement.

Proportionate share. That portion of the cost of system improvements which is reasonably related to the service demands and needs of the project.

Service area. A geographic area defined by the City of Gainesville in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

System improvement costs. Costs incurred to provide additional public facilities capacity needed to serve growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, if so authorized in this Article, provided that such administrative costs shall not exceed 3% of the total amount of development impact fee receipts. Projected interest charges and other finance costs may be included if the development impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

System improvements. Capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to "project improvements."

Section 15-1-6. Individual Fee Calculation Study

If an applicant opts not to have the development impact fee determined according Section 15-2-2 for public safety facilities or Section 15-3-2 for park and recreation facilities, then the applicant shall prepare and submit to the Impact Fee Administrator an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Impact Fee Administrator shall consider the documentation submitted by the applicant but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the applicant shall pay the development impact fees based upon the schedule shown in Section 15-2-2 and Section 15-3-2, as applicable. If an acceptable independent fee calculation study is presented, the Impact Fee Administrator may adjust the fee to that appropriate to the particular development. Determinations made by the Impact Fee Administrator pursuant to this paragraph may be appealed to the Mayor and City Council in accordance with Section 15-1-15 of this Chapter.

Section 15-1-7. Certification of Fee Schedule or Fee

On the request of an applicant, the Impact Fee Administrator shall certify the development impact fee schedules or development impact fees resulting from an individual assessment, whichever is applicable, and said certification shall establish the applicable development impact fees for a period of 180 days from the date thereof.

Section 15-1-8. Payment of Fee

The applicant shall pay the development impact fee(s) required by this Article to the Impact Fee Administrator or his/her designee prior to the issuance of a building permit.

Section 15-1-9. Administrative Fee

An administrative fee of 3% shall be levied against the total development impact fee due prior to the issuance of a building permit.

Section 15-1-10. Deposit of Fees in Appropriate Account

(a) All public safety impact fee funds collected shall be properly identified by and promptly transferred for deposit in the Public Safety Development Impact Fee Trust Funds of the City of Gainesville, which shall be interest bearing accounts, to be held in separate accounts as established in Section 15-2-4 of this Article and used solely for the purposes specified in this Article.

(b) All parks and recreation impact fee funds collected shall be properly identified by and promptly transferred for deposit in the Park and Recreation Development Impact Fee Trust Fund of the City of Gainesville, as established in Section 15-3-4 of this Article which shall be an interest bearing account, and used solely for the purposes specified in this Article.

Section 15-1-11. Report by Administrator

At least once each fiscal period the Impact Fee Administrator shall present to the City Council a report describing the amount of development impact fees collected, encumbered and used, and a proposed capital improvement program for public safety and parks and recreation, assigning funds, including any accrued interest, from the Public Safety Development Impact Fee Trust Funds to specific police facility and fire protection facility improvement projects and related expenses, and from the Park and Recreation Impact Fee Trust Funds to specific park and recreation facility improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the respective Impact Fee Trust Fund until the next fiscal period except as provided by the refund provisions of this Article.

Section 15-1-12. Refund of Fees Paid

(a) If a building permit expires without commencement of construction, then the Feepayor shall be entitled to a refund, without interest, of the development impact fee paid as a condition for its issuance except that the City shall retain 3% of the fee, if so authorized and collected, to offset a portion of the costs of collection and refund. The Feepayor must submit an application for such a refund to the Impact Fee Administrator within 30 days of the expiration of the permit.

(b) In the event that development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the development impact fee was paid, the Impact Fee Administrator shall provide written notice of entitlement to a refund to feepayors or their successors with interest.

(c) If funds are not expended or encumbered by the end of the calendar quarter immediately following six years from the date the development impact fee was paid, upon application of the then current landowner, they must be returned to such feepayor with interest that is a pro rata share of the interest earned by the fund. A feepayor must submit an application for a refund to the Impact Fee Administrator within one year of the expiration of the six year period or the publication of the notice of entitlement, whichever is later. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made.

Section 15-1-13. Exemptions

The following shall be exempted from payment of development impact fees:

(a) Alterations or expansion of an existing building where use and size are not changed.

(b) Additions to an existing dwelling unit.

(c) The construction of accessory buildings or structures.

(d) The replacement of a building or structure with a new building or structure of the same size and use.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

Section 15-1-14. Credits Generally

(a) This Section shall apply when a credit is considered or approved by the Impact Fee Administrator pursuant to Section 15-2-6 and Section 15-3-6 of this Article.

(b) Credit for the dedication of land shall be valued at: 115% of the most recent assessed value by the Property Appraiser, or by fair market value established by private appraisers acceptable to the City. Credit for the dedication of land for facilities shall be provided when the property has been conveyed at no charge to, and accepted by, the City in a manner satisfactory to the Impact Fee Administrator.

(c) Applicants for credit for construction of improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Impact Fee Administrator. The Impact Fee Administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Impact Fee Administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Impact Fee Administrator shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

(d) Except as provided in paragraph (e) of this Section, credit against development impact fees otherwise due will not be provided until: the construction is completed and accepted by the City, the County, or the State, whichever is applicable; and a suitable maintenance and warranty bond is received and approved by the Impact Fee Administrator, when applicable.

(e) Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out above will be met and if the applicant posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the Impact Fee Administrator in an amount determined by the Impact Fee Administrator. If the public facility construction project will not be constructed within one year of the acceptance of the offer by the Impact Fee Administrator, the amount of the security shall be increased by 10% compounded, for each year of the life of the security.

(1) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(2) Credits shall not be transferable from one project or development to another unless so provided in a development impact fee credit agreement.

Section 15-1-15. Appeals

(a) Any Applicant or Feepayor aggrieved by a decision of the Impact Fee Administrator made pursuant to this Article shall have the right to appeal to the Mayor and City Council. Prior to any such appeal the aggrieved Applicant or Feepayor shall file a request for reconsideration with the Impact Fee Administrator who shall act upon such request within 15 days.

(b) All appeals shall be taken within 15 days of the Impact Fee Administrator's decision on the request for reconsideration by filing with the Impact Fee Administrator a notice of appeal specifying the grounds therefore. The Impact Fee Administrator shall forthwith transmit to the Mayor and City Council all papers constituting the record upon which the action appealed from is taken. The Mayor and City Council shall thereafter establish a reasonable date and time for a hearing on the appeal, give due notice thereof, and decide the same within a reasonable period of time following the hearing. Any Applicant or Feepayor making an appeal shall have the right to appear at the hearing, to present evidence and may be represented by counsel.

(c) An Applicant may pay a Development Impact Fee under protest to obtain a building permit and by making such payment shall not be stopped from;

(1) Exercising the right of appeal provided for in this Section; or

(2) Receiving a refund of any amount deemed to have been illegally collected.

Section 15-1-16. Review and Automatic Update of Fee Schedules

(a) The development fee schedules contained in this Article should be reviewed by the Impact Fee Administrator at least once every two years.

(b) Unless otherwise directed by the governing body of the City of Gainesville, Georgia, the Impact Fee Administrator should at least once every two years recommend to the governing body of the City of Gainesville, Georgia the amendment of the development impact fee schedules established in this Article based on the methodology described in paragraphs (c) and (d) of this Section.

(c) The base for computing any adjustment is the January Construction Cost Index for the United States, published by McGraw-Hill. For the purpose of this Section the initial index to be referenced is January of the last year when the impact fees were updated with cost or demographic data.

(d) If the index is changed so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Construction Cost Index is discontinued or revised, the Consumer Price Index or such other index or computation with which it is replaced shall be used to obtain substantially the same result as would be obtained if the Construction Cost Index had not been discontinued or revised.

Section 15-1-17. Penalty Provision

A violation of this Article shall be prosecuted in the same manner as specified in Chapter 20-2 of this Unified Land Development Code. Upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the City of Gainesville shall have the power to sue in civil court to enforce the provisions of this Article.

Section 15-1-18. Severability

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof of this Article or this Unified Land Development Code.

Section 15-1-19. Repealer

Any ordinances covering the subject matter contained in this Article are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this Article are hereby repealed.

CHAPTER 15-2 PUBLIC SAFETY DEVELOPMENT IMPACT FEES

Section 15-2-1. Imposition of Public Safety Development Impact Fee

(a) Any person, who, after the effective date of this Article, seeks to develop land within the City of Gainesville, Georgia, by applying for a building permit, is hereby required to pay a public safety development impact fee in the manner and amount set forth in this Article.

(b) No new building permit for any activity requiring payment of a development impact fee pursuant to Section 15-2-2 of this Article shall be issued unless and until the public safety development impact fee hereby required has been paid.

Section 15-2-2. Computation of the Amount of Public Safety Development Impact Fee

At the option of the applicant, the amount of the public safety development impact fee may be determined by adding together the applicable police facility impact fee and the applicable fire protection facility impact fee from the following schedules.

Type and Unit of Development (per 1,000 square feet except as noted)	NAICS Code	Police Impact Fee (per 1,000 square feet except as noted)	Fire Impact Fee (per 1,000 square feet except as noted)
RESIDENTIAL			
Per dwelling	N/A	$375.00	$685.00
INDUSTRIAL AND RELATED			
Construction company	23	$410.37	$749.60
Data processing	5182	$467.00	$853.04
General freight trucking	4841	$187.50	$342.49
Industrial, light	--	$134.37	$245.45
Industrial, heavy	--	$67.12	$122.61
Materials recovery facility	56292	$785.00	$1,433.91
Mini-warehouse	--	$26.75	$48.86
Mining (acre)	21231	$8.75	$15.98
Nursery stock wholesaler (acre)	42493	$85.12	$155.49
Manufacturing	31-33	$215.00	$392.72
Petroleum bulk storage (acre)	4247	$303.00	$553.47
Research laboratory	--	$467.00	$853.04
Septic tank services	562991	$441.62	$806.68
Solid waste collection	562111	$645.00	$1,178.18
Warehousing	4931	$187.50	$342.49
Wholesale trade	42	$134.37	$245.45

Type and Unit of Development (per 1,000 square feet except as noted)	NAICS Code	Police Impact Fee (per 1,000 square feet except as noted)	Fire Impact Fee (per 1,000 square feet except as noted)
RETAIL TRADE AND SERVICES			
Amusement arcade	71312	$312.50	$570.82
Amusement park (acre)	713	$1,344.12	$2,455.22
Arena	--	$672.00	$1,227.50
Art store	45392	$256.62	$468.76
Automobile, new car dealer	44111	$268.75	$490.90
Automobile, used car dealer	44112	$312.50	$570.82
Automotive repair/maintenance	8111	$516.25	$943.00
Automotive parts store	44131	$268.75	$490.90
Automobile rental and leasing	53211	$312.50	$570.82
Bank	52211	$537.50	$981.81
Baked goods store	445291	$312.50	$570.82
Bar, drinking place or tavern	7224	$386.25	$705.53
Beer, wine and liquor store	44531	$178.25	$325.59
Book store	4512	$312.50	$570.82
Bowling center	71395	$312.50	$570.82
Building materials store	4441	$80.50	$147.04
Car wash (principal use)	811192	$512.50	$936.15
Caterer	72232	$500.00	$913.32
Cemetery (acre)	81222	$10.75	$19.63
Clothing store	4481	$224.37	$409.85
Consumer lending	522291	$435.75	$795.95
Cosmetic or beauty supply store	44612	$237.12	$433.14
Day care center	6244	$336.00	$613.75
Department store	4521	$312.50	$570.82
Dry cleaning/laundry	8123	$312.50	$570.82
Electronics store	443142	$312.50	$570.82
Fitness center	71394	$312.50	$570.82
Florist	4531	$109.37	$199.78
Formal wear/ costume rental store	53222	$224.37	$409.85
Fuel dealer	45431	$280.37	$512.14

Type and Unit of Development (per 1,000 square feet except as noted)	NAICS Code	Police Impact Fee (per 1,000 square feet except as noted)	Fire Impact Fee (per 1,000 square feet except as noted)
Funeral home	81221	$195.00	$356.19
Furniture or home furnishings store	442	$144.75	$264.40
Gasoline with convenience store	44711	$693.75	$1,267.23
Golf course/country club (acre)	71391	$33.62	$61.42
Hardware store	44413	$127.50	$232.89
Hobby, toy, game store	45112	$224.37	$409.85
Home improvement store	44411	$224.37	$409.85
Household appliance store	443141	$312.50	$570.82
Insurance carrier	5241	$537.50	$981.81
Janitorial service	56172	$529.37	$966.97
Jewelry store	44831	$312.50	$570.82
Landscaping services	56173	$145.00	$264.86
Linen or uniform supply	81233	$185.37	$338.61
Lodging (hotel or motel, including extended stay (per guest room)	72111	$107.50	$196.36
Lodging, bed and breakfast inn (per guest room)	721191	$53.75	$98.18
Marina	71393	$500.00	$913.32
Merchandise (general) store	4529	$312.50	$570.82
Merchandise (used) store	4533	$224.37	$409.85
Mobile food service (per vehicle)	72233	$443.75	$810.57
Movie Theater	71111	$201.62	$368.29
Museum	71211	$156.25	$285.41
Musical instrument store	45114	$224.37	$409.85
Nursery, garden, farm supply store	44420	$145.00	$264.86
Office, general	--	$403.12	$736.36
Office, medical or dental	--	$436.87	$798.01
Office supply store	4532	$312.50	$570.82
Optical goods store	44613	$312.50	$570.82
Paint or wallpaper store	44412	$176.62	$322.63
Personal care service	8121	$390.75	$713.75
Pet care (excludes veterinary)	81291	$462.50	$844.82

Type and Unit of Development (per 1,000 square feet except as noted)	NAICS Code	Police Impact Fee (per 1,000 square feet except as noted)	Fire Impact Fee (per 1,000 square feet except as noted)
Pet/pet supply store	45391	$168.75	$310.30
Pharmacy or drug store	44611	$224.37	$409.85
Recreational vehicle dealer	44121	$224.37	$409.85
Recreational vehicle park or campground (per camp site)	7212	$9.37	$17.12
Rental center	53231	$312.50	$570.82
Restaurant	7225	$693.75	$1,267.23
Securities brokerage	52312	$462.50	$844.82
Shoe store	44821	$224.37	$409.85
Specialty food store	4452	$312.50	$570.82
Supermarket/ grocery	44511	$224.37	$409.85
Sporting goods store	45111	$224.37	$409.85
Tennis or racquet club (principal) (court)	--	$32.25	$58.90
Tire store	44132	$224.37	$409.85
Tobacco/vape store	453991	$312.50	$570.82
Veterinary or animal hospital	54194	$379.62	$693.43
Video rental	53223	$265.62	$484.05
TRANSPORTATION & COMMUNICATION			
Ambulance services	62191	$518.75	$947.56
Courier or express delivery	4921	$318.75	$582.24
Limousine service	48532	$370.00	$675.85
Motor vehicle towing	48841	$518.75	$947.56
Newspaper publisher	51111	$267.50	$490.22
Parking lot/garage (acre)	81293	$896.25	$1,637.58
Radio/TV broadcasting	5151	$160.75	$292.26
Sound recording studio	51224	$105.00	$191.79
Taxi service	48531	$518.75	$947.56
Wireless telecommunication carrier	51721	$312.50	$570.82
INSTITUTIONAL			
Church/religious organization	8131	$67.12	$122.61
Civic or social organization	8134	$134.37	$245.45
Crisis center	6242	$351.50	$641.60

Type and Unit of Development (per 1,000 square feet except as noted)	NAICS Code	Police Impact Fee (per 1,000 square feet except as noted)	Fire Impact Fee (per 1,000 square feet except as noted)
Hospital	622	$436.87	$798.01
Nursing home/ assisted living	623	$634.37	$1,158.77
Recreational community center	--	$268.75	$490.90
School, general education	61111	$134.37	$245.45
School, business	6114	$312.50	$570.82
School, technical/trade	6115	$218.75	$399.57
School, cosmetology/barber	611511	$312.50	$570.82
School, fine arts	61161	$312.50	$570.82
Rooming or boarding house	7213	$721.25	$1,317.46

(a) If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedules by apportioning the space committed to uses specified on the schedules.

(b) If the type of development activity that a building permit is applied for is not specified on the above fee schedules, the Impact Fee Administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedules.

(1) The Impact Fee Administrator shall be guided in the selection of a comparable type by the City of Gainesville Comprehensive Plan, supporting documents of the City of Gainesville Comprehensive Plan, and this Unified Land Development Code. If the Impact Fee Administrator determines that there is no comparable type of land use provided in the above fee schedules, then the Impact Fee Administrator shall determine the appropriate fee by considering demographic or other documentation which is available from the City of Gainesville Community and Economic Development Department, and state and regional authorities.

(c) In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use. The Impact Fee Administrator shall be guided in this determination by the sources listed in subsection (b) above.

Section 15-2-3. Public Safety Service Area Established

There is hereby established one Public Safety Service Area which shall be the entirety of the incorporated area of the City of Gainesville.

Section 15-2-4. Public Safety Development Impact Fee Trust Funds Established

(a) There is hereby established one Police Facility Development Impact Fee Trust Fund and one Fire Protection Facility Development Impact Fee Trust Fund, which shall be an interest bearing account, for the Public Safety Service Area established in Section 15-2-3 of this Chapter.

(b) All public safety development impact fees collected shall be promptly deposited in the appropriate Public Safety Development Impact Fee Trust Funds, i.e., the Police Facility Development Impact Fee Trust Fund

and the Fire Protection Facility Development Impact Fee Trust Fund and maintained there, including interest thereon, until withdrawn pursuant to this Article.

(c) Funds withdrawn from these accounts must be used in accordance with the provisions of Section 15-2-5 of this Chapter.

Section 15-2-5. Use of Funds

(a) Funds deposited in the Police Facility Development Impact Fee Trust Fund shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to police protection facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(b) Funds deposited in the Fire Protection Facility Development Impact Fee Trust Fund shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to fire protection facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(c) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which public safety development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (a) and (b) above.

(d) In the event a developer enters into an agreement with the City to construct, fund or contribute system improvements such that the amount of the credit created by such construction, funding or contribution is in excess of the development impact fee otherwise due, the developer shall be reimbursed for such excess construction funding or contribution from development impact fees paid by other development located in the service area which is benefited by such improvements.

(e) Funds may be used to provide refunds as described in Section 15-1-12 of this Article.

(f) Funds shall be considered expended on a first in, first out basis.

Section 15-2-6. Credits

Public safety land and/or capital improvements may be offered by the applicant as total or partial payment of the required development impact fee. The applicant must request a public safety development impact fee credit. If the Impact Fee Administrator accepts such an offer, the credit shall be determined and provided in the manner described in Section 15-1-14 of this Article.

CHAPTER 15-3 PARK AND RECREATION DEVELOPMENT IMPACT FEES

Section 15-3-1. Imposition of Park and Recreation Development Impact Fee

(a) Any person who, after the effective date of this Article, seeks to develop land within the City of Gainesville, Georgia, by applying for a residential building permit is hereby required to pay a park and recreation development impact fee in the manner and amount set forth in this Article.

(b) No building permit for any activity requiring payment of a development impact fee pursuant to Section 15-3-2 of this Article shall be issued unless and until the park and recreation development impact fee hereby required has been paid.

Section 15-3-2. Computation of the Amount of Park and Recreation Development Impact Fee

At the option of the applicant, the amount of the park and recreation development impact fee may be determined by the following fee schedule.

Park and Recreation Impact Fee	
Cost per Dwelling	$1,400

If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.

Section 15-3-3. Park and Recreation Service Area Established

There is hereby established one Park and Recreation Development Impact Fee Service Area, which shall be the entire incorporated area of the City of Gainesville.

Section 15-3-4. Park and Recreation Development Impact Fee Trust Fund Established

(a) There is hereby established one Park and Recreation Development Impact Fee Trust Fund, which shall be an interest bearing account, for the Park and Recreation Development Impact Fee Service Area established by Section 15-3-3 of this Article.

(b) All park and recreation development impact fees collected shall be promptly deposited in the Park and Recreation Development Impact Fee Trust Fund and maintained there, including interest thereon, until withdrawn pursuant to this Article.

(c) Funds withdrawn from this account must be used in accordance with the provisions of Section 15-3-5 of this Article.

Section 15-3-5. Use of Funds

(a) Funds collected from park and recreation development impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to park and recreation facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(b) Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the Park and Recreation Development Impact Fee Service Area from which the funds were collected.

(c) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park and recreation development impact fees may be expended, development impact fees

may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsections (a) and (b) above.

(d) In the event a developer enters into an agreement with the City to construct, fund or contribute system improvements such that the amount of the credit created by such construction, funding or contribution is in excess of the development impact fee otherwise due, the developer shall be reimbursed for such excess construction funding or contribution from development impact fees paid by other development located in the service area which is benefited by such improvements.

(e) Funds may be used to provide refunds as described in Section 15-1-12 of this Article.

(f) Funds shall be considered expended on a first in, first out basis.

Section 15-3-6. Credits

(a) Park and recreation land and/or capital improvements may be offered by the applicant as partial payment of the required development impact fee. The applicant must request a park and recreation development impact fee credit. If the Impact Fee Administrator accepts such an offer, the credit shall be determined and provided in the manner described in Section 15-1-14 of this Article.

(b) An applicant may apply for credit against park and recreation development impact fees otherwise due for private park and/or recreation facilities. In no circumstance shall credit for private park and/or recreation facilities exceed 50% of the park and recreation development impact fees otherwise due. An applicant requesting credit must show that:

(1) The private park and/or recreation facility for which credit is sought serves a public recreational need; and

(2) The private park and/or recreation facility for which credit is sought is consistent with the Park and Recreation Capital Improvement Element of the City of Gainesville's Comprehensive Plan; and

(3) The request complies with the security provisions set forth in this Section.

ARTICLE 16 BUILDING AND PROPERTY MAINTENANCE REGULATIONS

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CHAPTER 16-1 CODES ADOPTED

Section 16-1-1. International Property Maintenance Code Adopted

The edition that is currently adopted and in force of the International Property Maintenance Code, published by the International Code Council, as hereinafter modified, is hereby adopted as the Housing Code of the City and is hereby made a part of this code. A copy of such edition of the International Property Maintenance Code is filed with the Clerk of the City of Gainesville, Georgia.

Section 16-1-2. International Building Code Adopted

That certain document, one copy of which is on file in the office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Building Code, as published by the International Code Council and is hereby adopted as the code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and structures in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Building Code, current edition adopted by the Board of Community Affairs of the State of Georgia, with Georgia amendments, published by the International Code Council on file in the office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-3. National Electrical Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the National Electrical Code, current edition, as adopted by the Board of Community Affairs of the State of Georgia, as published by the National Fire Prevention Association is hereby adopted as the Code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such National Electrical Code, current edition, with Georgia amendments, published by the National Fire Prevention

Association, on file in the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-4. International Fire Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Fire Code, current edition adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, as published by the International Code Council, is hereby adopted as the Code of the City of Gainesville, Georgia for regulating and governing the safeguarding of life and property from fire and explosion, hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Gainesville, Georgia and providing for the issuance of permits or hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such fire code on file in the Office of the Clerk of the City of Gainesville, Georgia are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-5. International Fuel Gas Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Fuel Gas Code, current edition, adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, as published by the International Code Council, Inc., is hereby adopted and the Fuel Gas Code of Gainesville, Georgia; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code are hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance.

Section 16-1-6. International Mechanical Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Mechanical Code, with Georgia amendments, current edition adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council, is hereby adopted as the Code of the City of Gainesville, Georgia, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of Gainesville, Georgia and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Mechanical Code current edition, with Georgia amendments, published by the International Code Council on file of the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-7. International Plumbing Code Adopted

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Plumbing Code current edition, as published by the International Code Council, with Georgia state amendments, adopted by the Georgia Department of Community Affairs, hereinafter referred to as the "Georgia State Minimum Standard Plumbing Code," is hereby adopted as the plumbing code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such Georgia State Minimum Standard Plumbing Code on file in the office of the city clerk are hereby referred to, adopted and made a part hereof as if fully set out in this Code, subject to the local amendments contained in Section 9-16-1-14.

Section 16-1-8. International Residential Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Residential Code, current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council, is hereby

adopted as the Code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one and two family dwellings and townhouses not more than three stories in height in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all regulations, provisions, conditions and terms of such International Residential Code, current edition, with Georgia Amendments, published by the International Code Council on file in the Office of the Clerk of the City of Gainesville, Georgia are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-9. International Energy Conservation Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Energy Conservation Code, current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council, with Georgia amendments, is hereby adopted as the Code of the City of Gainesville, Georgia, regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, current edition, with Georgia amendments, published by the International Code Council on file in the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 16-1-10. International Swimming Pool and Spa Code Adopted

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the "Standard Swimming Code, with Georgia amendments, current edition adopted by the Board of Community Affairs of the State of Georgia as published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, is hereby adopted as the code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the swimming pools in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions, and terms of such Standard Swimming Pool Code, current edition adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, on file in the office of the City Clerk of the City of Gainesville, Georgia, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

(a) Previously Existing Pools. Nothing contained herein shall apply to any pool in existence or under construction as of the effective date of this Article, provided, however, that all swimming pools in the City shall comply with Section 315 (Required Enclosure) on or before September 31, 1992.

(b) Abrogation and Greater Restrictions. Should any requirement or design standard of the Standard Swimming Pool Code conflict in any manner with any other law, rule or regulation of any local, state of federal regulation, applicable to the City then the stricter law, rule or regulation shall be applied. It is not intended by this article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where these articles imposes a greater restriction upon the use of property or premises than is imposed or required by other resolutions, rules and regulations, or by easements, covenants, or agreements, the provisions of this article shall govern.

Section 16-1-11. Life Safety Code Adopted

The edition of the NFPA 101 Life Safety Code that is currently adopted and in force is adopted, save and except such portions as hereinafter deleted, modified or amended of which a copy has been and is now filed in the office of the clerk of the city council, and same is hereby adopted and incorporated as fully as if set out at length herein. The Life Safety Code shall only apply to and govern those buildings and structures listed in the O.C.G.A, Sections 25-2-13 (a) and (b), as amended. The provisions of this Article shall govern all other buildings and structures.

Section 16-1-12. Continuation of Existing Structures

The legal occupancy of any structure existing on the date of adoption of this Article or its predecessor article shall be permitted to continue without change, except as is specifically covered in this Article, the International Property Maintenance Code or the International Fire Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

Section 16-1-13. Georgia Stormwater Management Manual Adopted

The latest revision of the Georgia Stormwater Management Manual (GSMM), is hereby adopted and incorporated for regulating the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of stormwater facilities in the city and providing for the issuance of permits and collection of fees therefore, in addition to Sections in this Ordinance. Each and all of the regulations, provisions, conditions and terms of such Georgia Stormwater Management Manual, latest edition, published by Atlanta Regional Commission are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Section 16-1-14. Local Amendment to Georgia State Minimum Standard Plumbing Code

(a) The provisions of this Section 9-16-1-14 shall amend the Georgia State Minimum Standard Plumbing Code adopted pursuant to Section 9-16-1-7 and are hereby incorporated into the city's plumbing code.

(b) The following definitions shall replace the definitions set forth in Chapter 2, Section 202 of the Georgia State Minimum Standard Plumbing Code under the definition of HIGH EFFICIENCY PLUMBING FIXTURES AND FITTINGS:

(1) The term "Kitchen faucet or kitchen faucet replacement aerator" shall mean: A kitchen faucet or kitchen faucet replacement aerator that allows a flow of no more than 1.8 gallons of water per minute at a pressure of 60 pounds per square inch and conforms to the applicable requirements in ASME A112.18.1/CSA B125.1.

(2) The term "Lavatory faucet or lavatory faucet replacement aerator" shall mean: A lavatory faucet or lavatory faucet replacement aerator that allows a flow of no more than 1.2 gallons per minute at a pressure of 60 pounds per square inch and is listed to the WaterSense High Efficiency Lavatory Faucet Specification.

(3) The term "Shower head" shall mean: A shower head that allows a flow of no more than the average of 2.0 gallons of water per minute at 80 pounds per square inch of pressure, is listed in the WaterSense Specification for Showerheads, and meets the US Department Definition of Energy definition of showerhead.

(c) A definition for the term "LANDSCAPE IRRIGATION" shall be added to Chapter 2, Section 202 of the Georgia State Minimum Plumbing Code, which definition shall state as follows:

"LANDSCAPE IRRIGATION".

Flow sensor. An inline device in a landscape irrigation system that produces a repeatable signal proportional to flow rate.

Lawn or Landscape Irrigation system. An assembly of component parts that is permanently installed for the controlled distribution of water to irrigate landscapes such as ground cover, trees, shrubs, and other plants. Lawn and Landscape Irrigation System refer to the same system.

Master shut-off valve. An automatic valve such as a gate valve, ball valve, or butterfly valve) installed as part of the landscape irrigation system capable of being automatically closed by the WaterSense controller. When this valve is closed water will not be supplied to the landscape irrigation system.

Pressure regulating device. A device designed to maintain pressure within the landscape irrigation system at the manufacturer's recommended operating pressure and that protects against sudden spikes or drops from the water source.

Rain sensor shut-off. An electric device that detects and measures rainfall amounts and overrides the cycle of a landscape irrigation system so as to turn off such system when a predetermined amount of rain has fallen.

WaterSense irrigation controller. Is a weather-based or soil moisture-based irrigation controller labeled under the U.S. Environmental Protection Agency's WaterSense program, which includes standalone controllers, add-on devices, and plug-in devices that use current weather data as a basis for scheduling irrigation.

WaterSense spray sprinkler bodies. A sprinkler body with integral pressure regulation, generating optimal water spray and coverage labeled under the U.S. Environmental Protection Agency's WaterSense program.

(d) Section 604.4, in Chapter 6, Section 604 of the Georgia State Minimum Standard Plumbing Code, shall be amended to read as follows:

604.4 Maximum flow and water consumption.

Consistent with the general approach taken in Georgia, these Maximum Flow and Water Consumption requirements and related definitions in Section 604.4 of the plumbing code shall apply to all plumbing systems, including those in one- and two-family dwellings. The maximum water consumption flow rates and quantities for all plumbing fixtures and fixture fittings shall be in accordance with Table 604.4.

Exceptions:

(1) Blowout design water closets having a water consumption not greater than $3^1/_2$ gallons (13 L) per flushing cycle.

(2) Vegetable sprays.

(3) Clinical sinks having a water consumption not greater than $4^1/_2$ gallons (17 L) per flushing cycle.

(4) Laundry tray sinks and service sinks.

(5) Emergency showers and eye wash stations.

(e) Table 604.4, in Chapter 6, Section 604 of the Georgia State Minimum Standard Plumbing Code, shall be amended to read as follows:

Plumbing Fixture or Fitting Fixture	Maximum Flow Rate or Quantity [b]
Lavatory faucet and replacement aerators, private	WaterSense Labeled & 1.2 gpm at 60 psi [f]
Lavatory faucet, public (metering)	0.25 gallon per metering cycle
Lavatory, public (other than metering)	0.5 gpm at 60 psi
Showerhead [a]	WaterSense Labeled & 2.0 gpm at 80 psi [f]
Kitchen faucet and replacement aerators	1.8 gpm at 60 psi [f, g]
Urinal	0.5 gallon per flushing cycle [f]
Water closet	1.28 gallons per flushing cycle [c, d, e, f]

Table Notes:

For SI: 1 gallon = 3.785 L, 1 gallon per minute = 3.785 L/m, 1 pound per square inch = 6.895 kPa.

[a] A hand-held shower spray is a shower head. As point of clarification, multiple shower heads may be installed in a single shower enclosure so long as each shower head individually meets the maximum flow rate, the WaterSense requirements, and the US Department of Energy definition of showerhead. However, multiple shower heads are not recommended for water efficiency purposes.

[b] Consumption tolerances shall be determined from referenced standards.

[c] For flushometer valves and flushometer tanks, the average flush volume shall not exceed 1.28 gallons.

[d] For single flush water closets, including gravity, pressure assisted and electro-hydraulic tank types, the average flush volume shall not exceed 1.28 gallons.

[e] For dual flush water closets, the average flush volume of two reduced flushes and one full flush shall not exceed 1.28 gallons.

[f] See 2020 GA Amendment to Section 301.1.2 'Waiver from requirements of high efficiency plumbing fixtures.'

[g] Kitchen faucets are permitted to temporarily increase the flow above the maximum rate, but not to exceed 2.2 gpm (8.3 L/m) at 60 psi (414 kPa) and must revert to a maximum flow rate of 1.8 gpm (6.8 L/m) at 60 psi (414 kPa) upon valve closure.

(f) The following sections shall be added to Section 604.4, in Chapter 6, Section 604 of the Georgia State Minimum Plumbing Code, immediately following Table 604.4:

604.4.1 Clothes Washers.

Residential clothes washers shall be in accordance with the Energy Star program requirements.

604.4.2. Cooling Tower Water Efficiency

(1) 604.4.2.1 Once-Through Cooling.

(2) Once-through cooling using potable water is prohibited.

(3) 604.4.2.2. Cooling Towers and Evaporative Coolers.

(4) Cooling towers and evaporative coolers shall be equipped with makeup water and blow down meters, conductivity controllers and overflow alarms. Cooling towers shall be equipped with efficiency drift eliminators that achieve drift reduction to 0.002 percent of the circulated water volume for counterflow towers and 0.005 percent for crossflow towers.

(5) 604.4.2.3 Cooling Tower Makeup Water

(6) Water used for air conditioning, cooling towers shall not be discharged where the hardness of the basin water is less than 1500 mg/L. Exception: Where any of the following conditions of the basin water are present: total suspended solids exceed 25 ppm, CaCO3 exceeds 600 ppm, chlorides exceed 250 ppm, sulfates exceed 250 ppm, or silica exceeds 150 ppm.

604.4.3 Landscape Irrigation System Efficiency Requirements.

The requirements in Section 604.4.3 apply to all new landscape irrigation systems connected to the public water system except those (a) used for agricultural operations as defined in the Official Code of Georgia Section 1-3-3, (b) used for golf courses, and (c) dependent upon a nonpublic water source. Nothing in this Code or in this Section 604.4.3 is intended to require that landscape irrigation systems must be installed at all premises. The landscape irrigation efficiency requirements in this Section 604.4.3 apply only when someone voluntarily chooses, or is otherwise required by some requirement beyond this Code, to install a landscape irrigation system on premises.

(7) 604.4.3.1 Avoiding Water Waste Through Design.

(8) All new landscape irrigation systems shall adhere to the following design standards:

(9) 1. Pop-up type sprinkler heads shall pop-up to a height above vegetation level of not less than four (4) inches above the soil level when emitting water.

(10) 2. Pop-up spray heads or rotary sprinkler heads must direct flow away from any adjacent surfaces and must not be installed closer than four inches from impervious surfaces.

(11) 3. Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or by other means that produces no overspray or runoff.

(12) 4. Narrow or irregular shaped landscaped areas, less than four (4) feet in any direction across opposing boundaries shall not be irrigated by any irrigation emission device except sub-surface or low flow emitters with flow rates not to exceed 6.3 gallons per hour.

(13) 604.4.3.2 Landscape Irrigation System Required Components.

(14) All new landscape irrigation systems shall include the following components:

(15) 1. A rain sensor shut-off installed in an area that is unobstructed by trees, roof over hangs, or anything else that might block rain from triggering the rain sensor shutoff.

(16) 2. A master shut-off valve for each controller installed as close as possible to the point of connection of the water but downstream of the backflow prevention assembly.

(17) 3. Pressure-regulating devices such as valve pressure regulators, sprinkler head pressure regulators, inline pressure regulators, WaterSense spray sprinkler bodies, or other devices shall be installed as needed to achieve the manufacturer's recommended pressure range at the emission devices for optimal performance.

(18) 4. Except for landscape irrigation systems serving a single-family home, all other systems must also include:

(a) a WaterSense irrigation controller; and

(b) at least one flow sensor, which must be installed at or near the supply point of the landscape irrigation system and shall interface with the control system, that when connected to the WaterSense controller will detect and report high flow conditions to such controller and automatically shut master valves. The flow sensor serves to aid in detecting leaks or abnormal flow conditions by suspending irrigation. High flow conditions should be consistent with manufacturers' recommendations and specifications."

(g) Section 1304.3.2, in Chapter 13, Section 1304 of the Georgia State Minimum Standard Plumbing Code shall be amended to read as follows:

1304.3.2 Connections to water supply.

Reclaimed water provided from a reclaimed wastewater treatment system permitted by the Environmental Protection Division may be used to supply water closets, urinals, trap primers for floor drains and floor sinks, water features and other uses approved by the Authority Having Jurisdiction, in motels, hotels, apartment and condominium buildings, and commercial, industrial, and institutional buildings, where the individual guest or occupant does not have access to plumbing. Also, other systems that may use a lesser quality of water than potable water such as water chillers, carwashes or an industrial process may be supplied with reclaimed water provided from a reclaimed wastewater treatment facility permitted by the Environmental Protection Division. The use of reclaimed water sourced from any new private reclaimed wastewater treatment system for outdoor irrigation shall be limited to golf courses and agriculture operations as defined in the Official Code of Georgia Section 1-3-3, and such reclaimed water shall not be approved for use for irrigating any other outdoor landscape such as ground cover, tree, shrubs, or other plants. These limitations do not apply to reclaimed water sourced from existing private reclaimed water systems or from existing or new, governmentally-owned reclaimed wastewater treatment systems.

(h) Section E101.1.2 in Appendix E of the Georgia State Minimum Standard Plumbing Code shall be amended to read as follows:

Because of the variable conditions encountered in hydraulic design, it is impractical to specify definite and detailed rules for sizing of the water piping system. Accordingly, other sizing or design methods conforming to good engineering practice standards are acceptable alternatives to those presented herein. Without limiting the foregoing, such acceptable design methods may include for multi-family buildings the Peak Water Demand Calculator from the IAPMO/ANSI 2020 Water Efficiency and Sanitation Standard for the Built Environment, which accounts for the demands of water-conserving plumbing fixtures, fixture fittings, and appliances. If future versions of the Peak Water Demand Calculator including other building types, such as commercial, such updated version shall be an acceptable design method.

CHAPTER 16-2 FIRE PREVENTION

Section 16-2-1. Fire Limits Established

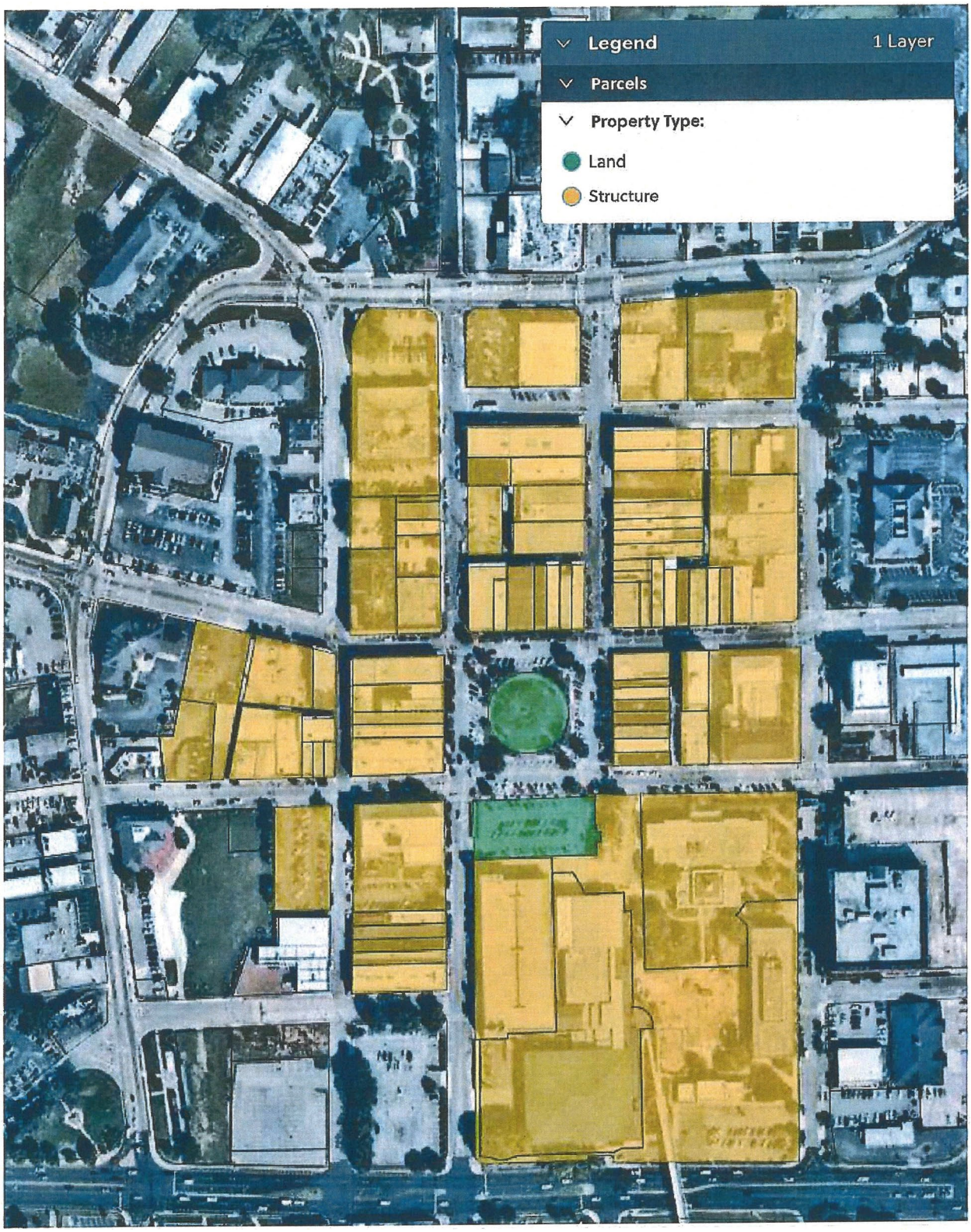
All that portion of the city bounded by the following named streets, alleys, avenues and lanes as hereinafter set forth, is hereby defined and shall hereafter be known as and constitute the fire limits of the city and which is also shown on the fire limits map which is hereby made a part of this chapter:

The following property addresses will be considered covered under the proposed fire district amendment as currently listed:

0 Main Street Southwest, Gainesville, Ga. 30501; 100 Main Street Southwest, Gainesville, Ga. 30501; 100 Washington Street Northwest, Gainesville, Ga. 30501; 101 Bradford Street Southeast, Gainesville, Ga. 30501; 101 Washington Street, Gainesville, Ga. 30501; 102 Washington Street Northwest, Gainesville, Ga. 30501; 104 Main Street Southwest, Gainesville, Ga. 30501; 104 Washington Street Northwest, Gainesville, Ga. 30501; 105 Bradford Street Southeast, Gainesville, Ga. 30501; 106 Spring Street Southwest, Gainesville, Ga. 30501; 106 Washington Street Northwest, Gainesville, Ga. 30501; 107 Bradford Street Southeast, Gainesville, Ga. 30501; 107 Washington Street Northeast, Gainesville, Ga. 30501; 108 Bradford Street Northeast, Gainesville, Ga. 30501; 108 Washington Street Northwest, Gainesville, Ga. 30501; 109 Bradford Street Southeast, Gainesville, Ga. 30501; 109 Green Street Northeast, Gainesville, Ga. 30501; 109 Washington Street Northeast, Gainesville, Ga. 30501; 11O Main Street Southwest, Gainesville, Ga. 30501; 110 Maple Street Southwest, Gainesville, Ga. 30501; 111 Bradford Street Southeast, Gainesville, Ga. 30501; 111 Main Street Northwest, Gainesville, Ga. 30501; 111 Spring Street Southeast, Gainesville, Ga. 30501; 111 Washington Street Northeast, Gainesville, Ga. 30501; 111 Washington Street Southwest, Gainesville, Ga. 30501; 112 Bradford Street Northeast, Gainesville, Ga. 30501; 112 Main Street Southwest, Gainesville, Ga. 30501; 113 Bradford Street Southeast, Gainesville, Ga. 30501; 113 Washington Street Northeast, Gainesville, Ga. 30501; 114 Washington Street Northwest, Gainesville, Ga. 30501; 114Washington Street Southeast, Gainesville, Ga. 30501; 115 Bradford Street Northwest, Gainesville, Ga. 30501; 115 Bradford Street Southeast, Gainesville, Ga. 30501; 115 Washington Street Northeast, Gainesville, Ga. 30501; 116 Bradford Street Northeast, Gainesville, Ga. 30501; 116 Spring Street Southeast, Gainesville, Ga. 30501; 117 Bradford Street Southeast, Gainesville, Ga. 30501; 117 Jesse Jewell Parkway Southeast, Gainesville, Ga. 30501; 118 Bradford Street Northeast, Gainesville, Ga. 30501; 118 Washington Street Northwest, Gainesville, Ga. 30501; 119 Main Street Northwest, Gainesville, Ga. 30501; 119 Washington Street Northeast, Gainesville, Ga. 30501; 120 Bradford Street Northeast, Gainesville, Ga. 30501; 121 Bradford Street Northwest, Gainesville, Ga. 30501; 121 Spring Street Southeast, Gainesville, Ga. 30501; 121 Washington Street Northeast, Gainesville, Ga. 30501; 122 Bradford Street Northeast, Gainesville, Ga. 30501; 122 Maple Street Northwest, Gainesville, Ga. 30501; 123 Main Street Northwest, Gainesville, Ga. 30501; 124 Main Street Northwest, Gainesville, Ga. 30501; 125 Main Street Northwest, Gainesville, Ga. 30501; 126 Bradford Street Northeast, Gainesville, Ga. 30501; 127 Main Street Northwest, Gainesville, Ga. 30501; 129 Bradford Street Northwest, Gainesville, Ga. 30501; 130 Bradford Street Northeast, Gainesville, Ga. 30501; 131 Bradford Street Northwest, Gainesville, Ga. 30501; 131 Green Street Northeast, Gainesville, Ga. 30501; 132 Bradford Street Northeast, Gainesville, Ga. 30501; 200 Broad Street Southwest, Gainesville, Ga. 30501; 200 Main Street Southwest, Gainesville, Ga. 30501; 200 Washington Street Northwest, Gainesville, Ga. 30501; 201 Green Street Northeast, Gainesville, Ga. 30501; 202 Bradford Street Northeast, Gainesville, Ga. 30501; 210 Washington Street Northwest, Gainesville, Ga. 30501; 212 Spring Street Southwest, Gainesville, Ga. 30501; 215 Bradford Street Northwest, Gainesville, Ga. 30501; 220 Main Street Southwest, Gainesville, Ga. 30501; 222 Main Street Southwest, Gainesville, Ga. 30501; 224 Main Street Southwest, Gainesville, Ga. 30501; 226 Main Street Southwest, Gainesville, Ga. 30501; 300 Spring Street Southwest, Gainesville, Ga. 30501; 301 Main Street Southwest , Gainesville, Ga. 30501; 301 Washington Street Southwest, Gainesville, Ga. 30501; 302 Spring Street Southwest, Gainesville, Ga. 30501; 303 Washington Street Southwest, Gainesville, Ga. 30501; 304 Spring Street Southwest, Gainesville, Ga. 30501; 308 Spring Street Southwest, Gainesville, Ga. 30501; 320 Spring Street Southwest, Gainesville, Ga. 30501; 322 Spring Street Southwest, Gainesville, Ga. 30501.

All matters pertaining to structural conditions of buildings within the fire limits shall be in compliance with appendix D of the International Building Code, current edition, adopted by the department of community affairs of the state,

and which is on file in the office of the city clerk, and hereby referred to, adopted and made a part hereof as if fully set out in this Code.


Legend
1 Layer
Parcels
Property Type:
Land
Structure

Section 16-2-2. Penalties for Violating the Fire Code

(a) Any person who shall violate any of the provisions of the fire code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, and shall be punished as provided in Section 1-1-7 of the Gainesville Code or Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 16-2-3. Bureau of Fire Prevention Established; Duties; Enforcement of Code

(a) The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of the city which is hereby established and which shall be operated under the supervision of the chief of the fire department.

(b) The chief of fire prevention (fire marshal) in charge of the bureau of fire shall be appointed by the city manager.

(c) The chief of the fire department may detail and appoint such members of the fire department as inspectors and technical inspectors as shall from time to time be necessary.

(d) A report of the bureau of fire prevention shall be made annually and transmitted to the fire chief of the city; it shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable.

Section 16-2-4. Chief of Bureau of Fire prevention; Modification of Code

The chief of the bureau of fire prevention shall have the power to modify any of the provisions of the fire prevention code adopted by this article upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the chief of the bureau of fire prevention thereon, shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.

Section 16-2-5. New Materials, Processes or Occupancies, Which May Require Permits

The city manager, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the code adopted by this article. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

Section 16-2-6. Smoking in Bed in Hotels Prohibited; Operator to Post Notice of Section Provisions

(a) It shall be unlawful for any person while he is an occupant of a hotel, rooming house, tourist court or other commercial establishment where rooming accommodations are furnished for hire, to smoke any cigarette, cigar, pipe or other device used for the burning of tobacco or other substances while such person is in bed.

(b) Each operator or owner of any hotel, rooming house, tourist court or other commercial establishment where rooming accommodations are furnished for hire shall post a notice containing the provisions of this section in each room of such establishment.

Section 16-2-7. Smoking in Theaters

(a) The smoking of cigarettes, cigars and pipes by patrons of motion picture theaters in the city in areas within such theaters which have been designated "no smoking" by the chief of the fire department of the city is prohibited.

(b) Any person violating any of the provisions of this section shall be punished as provided in section 1-1-7 of the Gainesville City Code of Ordinances.

Section 16-2-8. Fire Inspection

The chief of fire prevention of the fire department of the city is authorized to inspect any building or premises within the corporate limits of the city for the purpose of ascertaining the condition thereof with reference to the presence, arrangement or deposit of any articles, materials, goods, wares and merchandise which may be combustible or inflammable, or endanger any occupant of or person upon the premises, building or structure, and for the purpose of examining the size, arrangement and efficiency of any and all appliances for protection against fire in or upon such premises, building or structure.

Section 16-2-9. Removal of Hazard

If the chief of fire prevention, upon inspection of any premises, building or structure, shall find any rubbish, debris, waste or inflammable materials therein or thereon, in violation of this article or shall find articles, materials, substances, goods, wares or merchandise so arranged as to increase the risk of fire or to prevent proper access to or exit from premises, building or structure, either for the occupants of the premises or for the members of the fire department, he may order, in writing, which order shall be directed to the owner or occupant of such premises, and it is hereby made the duty of the owner or person in control of the premises to comply with such order with all reasonable dispatch, the removal of such rubbish, debris, inflammable or combustible materials from such premises, building or structure, or the arrangement and disposition of such goods, wares or merchandise so as to make the premises accessible for firefighting and for exit of persons.

Section 16-2-10. Firefighting Equipment

If the chief of fire prevention shall, upon inspection, determine that the firefighting equipment provided on the premises is inadequate or insufficient, or if he shall find that the equipment for firefighting in the building, premises or structure is not in good working condition, he shall by an order in writing, direct the owner or person in control of the premises to comply with such order to procure such equipment as he may designate, or to put the equipment in working condition with all reasonable dispatch.

Section 16-2-11. Straw, Hay, Lumber, Etc.; Stacking

No hay, grain, straw, rubbish, lumber or other combustible material shall be stacked, piled or placed within the fire limits of the city, except that the same be placed in a building provided for the storage of same and a permit secured therefore from the chief of fire prevention or his representative.

Section 16-2-12. Gasoline and Oil Storage

No person shall store or keep in any building or structure within the fire limits of the city any gasoline, benzene or inflammable fluid in excess of 50 gallons unless the same is stored or kept within such fire limits when contained in steel barrels tightly closed, and in cans, bottles or containers designed for the sale or for the service of motor vehicles.

Section 16-2-13. Notice for Building or Combustible Materials Declared a Nuisance

Any building erected or combustible materials piled contrary to provisions of this Article are declared to be a nuisance; and any hay, grain, straw, rubbish, lumber or other combustible material that may be piled, placed or stacked within said fire limits contrary to this article, shall be and is hereby declared a nuisance, and the chief of fire prevention shall upon information thereof give 24 hours' notice to the owner, builder or person in control of the premises of such nuisance, such notice to be in writing, and upon failure of any such persons to comply with such notice, the city shall direct the removal or tearing down of such buildings or structures or piles of hay, grain, straw, rubbish or other combustible materials, and the city shall forthwith execute such order and shall report the cost and expense thereof. Such cost may be collected from the owner, builder or person in control of such nuisance by suit in the name of the city, before any court having jurisdiction. The same may be assessed against the premises upon which such nuisance was located and collected in due course as a special assessment.

CHAPTER 16-3 EXCAVATION AND GRADING

Section 16-3-1. Purposes

Soil erosion and sediment deposition onto lands and into waters in the city are occurring as a result of land clearing, excavation, filling, grading, and construction activities. Such erosion and sediment deposition results in pollution of county waters and damage to domestic agricultural, recreational, fish and wildlife, and other resource uses. This chapter establishes uniform rules and regulations for excavation, filling, and grading activities for all sites with the city and provides for administration and enforcement of such rules and regulations.

Section 16-3-2. Reference to Regulations

The rules and regulations for excavation, filling, and grading activities shall in addition to this chapter include Article 8, Article 11, and Article 12. Excavation, filling and grading activities are regulated under the Georgia NPDES Construction Stormwater Permit and Municipal Stormwater Permit programs. Design guidelines are found in the Georgia Stormwater Management Manual, latest edition. Construction requirements for controlling erosion and sedimentation impacts to stormwater are found in the latest edition of the Manual for Erosion and Sediment Control in Georgia, published by the Georgia Soil and Water Conservation Commission.

Section 16-3-3. Debris from Construction Sites

A permit issued by the city for excavation, grading, or land development, as required by Chapter 11-6 of this Unified Land Development Code, shall require the owner of the property or his representative to prevent the scattering of earth, rock, vegetation and other debris upon public streets, drainage systems, or private property is restricted or disrupted from normal use or operation or in any way damaged, made unsightly or unsafe by the collection or deposit of mud earth, rock, vegetation or other debris originating at or dislodged by clearing, grading, or construction activities at the construction site.

Section 16-3-4. Daily Clearing of Debris; Performance Bond

Land development permits shall further require the property owner or his representative to completely clear, unclog and clean any public street or drainage system so affected by clearing, grading or construction activities at the end of each work day and at such other times as so required by the public works department. The property owner or his representative shall be held responsible for violations of this section for a period of not less than two years after the permit is issued; or, after two years, until such time as the property is returned to a stable condition as determined by the public works department. A certificate of completion shall be issued to the applicant after the official makes the determination. Each applicant will provide a performance bond, letter of escrow, irrevocable letter of credit, or other satisfactory security on a form approved by the city manager to ensure that authorized work is accomplished in accordance with the approved permits. The amount is to be determined by the public works department.

Section 16-3-5. Geologic Report

Unique sites including extreme cuts/fills, rock blasting, faulting, unstable soils, or other similar geotechnical problems may be required to submit a geologic report certified by a professional engineer registered in the State of Georgia. Such report shall address monitoring during construction phrase, if required, and shall comply with the latest edition of the "Manual for Erosion and Sediment Control in Georgia," published by the Georgia Soil and Water Conservation Commission, as amended.

Section 16-3-6. License Required

Contractors or builders conducting excavation, grading, and filling projects in the city that are not exempted under the provisions of the Unified Land Development Code shall comply with Chapter 6-2 of the Gainesville Code of Ordinances.

CHAPTER 16-4 STRUCTURES DANGEROUS TO PUBLIC HEALTH

Section 16-4-1. Findings of the Existence of Nuisances

(a) The governing authority of the city finds and declares that within the city limits there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the city; or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the city and the state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

(b) It is further found and declared that in the city where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the city and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the city finds that there exist in the city dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the city, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.

(c) It is the intention of the governing authority that this section shall comply with and does comply with O.C.G.A § 41-2-9(a) as a finding that conditions as set out in OCGA § 41-2-7 exist within the city.

Section 16-4-2. Definitions

Applicable codes.

(a) Any optional housing or abatement standard provided in Chapter 2 of Title 8 of the O.C.G.A. as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law or general nuisance law, relative to the safe use of real property;

(b) Any fire or life safety code as provided for in Chapter 2 of Title 25 of the O.C.G.A.; and

(c) Any building codes adopted by the city prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. Chapter 2 of Title 8 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

City. The City of Gainesville, Georgia.

Closing. Causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Decentralized wastewater system. A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

Drug crime. An act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, known as the Georgia Controlled Substances Act.

Dwellings, buildings, or structures. Any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this chapter, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing authority. The city council of the City of Gainesville.

Interested parties.

(d) Owner;

(e) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the state bar;

(f) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;

(g) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the county courthouse or by the clerk of court. Interested parties shall not include the holder of the benefit or burden of any easement or right of way whose interest is properly recorded which interest shall remain unaffected; and

(h) Persons in possession of said property and premises.

Owner. The holder of the title in fee simple and every mortgagee of record.

Public authority. Any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

Public officer. The officer or officers who are authorized by this chapter to exercise the powers prescribed by this chapter or any agent or designee of such officer or officers.

Repair. Altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes of the city and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident. Any person residing in the city on or after the date on which the alleged nuisance arose.

Utilities. All public, private, and municipal, above or below ground, infrastructure systems providing water, stormwater, sanitary sewer, natural gas, electricity, telecommunications, cable television or internet, or any other service controlled by the State public services commission.

Section 16-4-3. Maintenance Duties

It is the duty of the owner of every dwelling, building, structure, or property within the city to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.

Section 16-4-4. Appointment of Public Officer

The city council shall appoint or designate the chief building inspector, city fire marshal, city fire chief, city police chief, and his/her designees as public officer(s) to exercise the powers prescribed by this Chapter.

Section 16-4-5. Procedures for Determining Premises to be Unsafe or Unhealthful

(a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the city charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.

(b) If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause a summons and a copy of the complaint to be served on the owner and interested parties in such dwelling, building, or structure.

(c) The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the city. Such hearing shall be held not less than 15 days or more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(d) If after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

(3) For purposes of this section, the court shall make its determination of reasonable cost in relation the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. The income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, of the O.C.G.A.,

qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the City.

(e) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure, to be repaired, altered, improved, to be vacated and closed, or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A Section 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

(1) "This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(f) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and the city are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(g) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the city tax collector and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(1) The city tax collector, shall have the power to attach a lien provided for in this section to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the clerk of superior court of Hall County and shall relate back to the date of the filing of the lis pendens notice required under subsection (c) of O.C.G.A. 41-2-12(c). The clerk of superior court shall record and index such certified copy of the order in the deed records of Hall County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

(2) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the public officer responsible for enforcement actions in accordance with this chapter shall transmit to the city tax collector a statement of the total amount due and secured by said lien, together with copies of all notices provided to interested parties. The statement of the public officer shall be transmitted within 90 days of completion of the repairs, demolition, or closure. The city tax collector shall collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48 of the O.C.G.A.; provided, however, that the limitation of O.C.G.A. 48-4-78 which requires 12 months of delinquency before commencing tax foreclosure shall not apply. The city tax collector shall remit the amount collected to the finance department of the city.

(3) Enforcement of liens pursuant to the chapter may be initiated at any time following receipt by the city tax collector of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

An enforcement proceeding pursuant to O.C.G.A. 8-4-78 for delinquent ad valorem taxes may include all amounts due under this chapter.

(4) The redemption amount in any enforcement proceeding pursuant to this code section shall be the full amount of the costs as finally determined in accordance with this code section together with interest, penalties, and costs incurred by the city tax collector in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. Section 48-4-80 and 48-4-81.

(h) The city may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the city agreeing to a timetable for rehabilitation of the real property of the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

(i) Where the abatement action does not commence in the superior court, review of a court order of the municipal court of the city requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. 5-3-29.

(j) The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this section.

(k) Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 16-4-6. Officer Determination of Nuisance

(a) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the city. Such conditions may include the following (without limiting the generality of the foregoing):

(1) Defects therein increasing the hazards of fire, accidents or other calamities;

(2) Lack of adequate ventilation, light, or sanitary facilities;

(3) Dilapidation;

(4) Disrepair;

(5) Structural defects;

(6) Uncleanliness; and

(7) Other additional standards, which may from time to time by adopted and referenced herein by ordinance amendment.

(b) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

Section 16-4-7. Powers of Public Officers

The public officer(s) designated in this Chapter are authorized to exercise such power as may be necessary or convenient to carry out and effectuate the purposes and provisions of Section 16-4-1 through Section 16-4-6, and

Section 16-4-8 through Section 16-4-10, including the following powers in addition to others granted in Section 16-4-1 through Section 16-4-6, and Section 16-4-8 through Section 16-4-10:

(a) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;

(b) To administer oaths and affirmations, to examine witnesses, and to receive evidence;

(c) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(d) To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this section; and

(e) To delegate any of his or her functions and powers under this Chapter to such officers and agents as he or she may designate.

Section 16-4-8. Service of Complaints

(a) Complaints issued by a public officer pursuant to this chapter shall be served in the following manner.

(1) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable.

(2) Copies of the complaint shall also be mailed by first class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within 3 business days of filing the complaint and at least 14 days prior to the date of the hearing.

(b) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appears in such county once a week for two consecutive weeks prior to the hearing.

(c) A notice of lis pendens shall be filed in the office of the clerk of superior court of Hall County at the time of filing the complaint in the appropriate court. Such notice shall have the same force and effect as other lis pendens notices provided by law.

(d) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this code section on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Section 16-4-9. Use of Other Ordinances as Nuisance Abatement Procedures

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of any charter provision or ordinance or regulation, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

Section 16-4-10. Injunctions

Any person affected by an order issued by the public officer may petition to the superior court for an injunction restraining the public officer from carrying out the provision of the order pursuant to O.C.G.A. 41-2-13.

Section 16-4-11. Taking of Unfit Buildings or Structures by Eminent Domain; Police Power

Nothing in this Chapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state, nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state.

Section 16-4-12. Authority to Use Revenues, Grants, and Donations to Repair, Close, or Demolish Unfit Buildings or Structures

The City is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this Chapter.

CHAPTER 16-5 THE BUILDING OFFICIAL

Section 16-5-1. Enforcement and Interpretation

The Building Official is hereby authorized and directed to enforce the provisions of this Article and all of the codes adopted in this Article. The Building Official shall have the authority to render interpretations of this Article and the codes adopted in this Article and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Article. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Section 16-5-2. Applications and Permits

The Building Official shall receive applications, review construction documents and issue permits for the erection and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Article and the codes adopted in this Article.

Section 16-5-3. Notices and Orders

The Building Official shall issue all necessary notices or orders to ensure compliance with this Article and the codes adopted in this Article.

Section 16-5-4. Inspections

Inspections required under the provisions of the building code shall be made by the Building Official or his duly appointed assistant. The Building Official may accept reports of inspectors and recognized inspection services after investigation of their qualifications and reliability. Any such reports of inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. No certificate called for by any provision of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible inspector or such service.

Section 16-5-5. Identification

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

Section 16-5-6. Right of Entry

Where it is necessary to make an inspection to enforce the provisions of this code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises were unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

Section 16-5-7. Department Records

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

Section 16-5-8. Duties

The Building Official shall devote his whole time to the duties of this office. He shall receive applications required by this code, issue permits, and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the building code and other codes adopted in this Article. He shall, when required by the proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the building code and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

Section 16-5-9. Other State Law Authorization

The City Building Official is authorized to do any act or take any action, which is authorized by the State Construction Industry Licensing Board Act.

Section 16-5-10. Cooperation of Other Officials

The Building Official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the City.

Section 16-5-11. Appointment

The Building Official shall be appointed by the City Manager.

Section 16-5-12. Creation of Enforcement Agency

The department of building safety is hereby created and the official in charge thereof shall be known as the Building Official.

Section 16-5-13. Deputies

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the City Manager, the Building Official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the Building Official. For the maintenance of existing properties, see the International Property Maintenance Code.

Section 16-5-14. Approved Materials and Equipment

Materials, equipment and devices approved by the Building Official shall be constructed and installed in accordance with such approval. The use of used materials, which meet the requirements of this code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

Section 16-5-15. Modifications

Wherever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Section 16-5-16. Alternative Materials and Construction Methods

The provisions of this Article and the codes adopted in this Article are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Article or a code adopted here under, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Article and the intent of the applicable code adopted by this Article, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

Section 16-5-17. Tests

Whenever there is insufficient evidence of compliance with the provisions of this Article, or evidence that a material or method does not conform to the requirements of this Article or the codes adopted here under, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this Article or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. The Building Official shall retain reports of such tests for the period required for retention of public records.

CHAPTER 16-6 PERMITS AND EXEMPTIONS

Section 16-6-1. Permits Required

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by a code adopted in this Article, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

Section 16-6-2. Permit Exemptions Generally

Exemptions from permit requirements of this Article and codes adopted in this Article shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Article, codes adopted hereunder, or any other laws or ordinances of the City of Gainesville.

Section 16-6-3. Exemptions from Building Permit

Building permits shall not be required for the following:

(a) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet for nonresidential uses and 200 square feet for residential uses.

(b) Fences not over 7 feet (2134 mm) high.

(c) Oil derricks.

(d) Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

(e) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2:1.

(f) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

(g) Temporary motion picture, television and theater stage sets and scenery.

(h) Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2 which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19 000 L) and are installed entirely above ground.

(i) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

(j) Swings and other playground equipment accessory to one- and two-family dwellings.

(k) Window awnings supported by an exterior wall of Group R-3 as applicable in Section 101.2, and Group U occupancies.

(l) Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

Section 16-6-4. Exemptions from Electrical Permit

Electrical permits shall not be required for the following:

(a) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

(b) Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, the installations of towers and antennas.

(c) Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Section 16-6-5. Exemption from Gas Code

Replacement of any minor part of a portable heating appliance that does not alter approval of equipment or make such equipment unsafe is exempt from a gas code permit.

Section 16-6-6. Exemptions from Mechanical Permit

(a) Where equipment and appliance replacements or repairs must be performed in an emergency situation, the permit application shall be submitted with the next working business day of the department of mechanical inspection.

(b) Mechanical permits shall not be required for the following:

(1) Portable heating appliances;

(2) Portable ventilation appliances and equipment;

(3) Portable cooling units;

(4) Steam, hot water or chilled water piping within any heating or cooling equipment or appliances regulated by this code;

(5) The replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe;

(6) Portable evaporative coolers; and

(7) Self-contained refrigeration systems that contain 10 pounds (4.5kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75kW) or less.

(c) Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.

Section 16-6-7. Exemptions from Plumbing Permit

Plumbing permits shall not be required for the following:

(a) The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

(b) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

Section 16-6-8. Permit Application Requirements

To obtain a permit, the applicant shall first file an application in writing on a form furnished by the department of building safety for that purpose. Such application shall:

(a) Identify and describe the work to be covered by the permit for which application if made.

(b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and locate the proposed building or work.

(c) Indicate the use and occupancy for which the proposed work is intended.

(d) Be accompanied by construction documents and other information as required by the Building Official.

(e) State the valuation of the proposed work.

(f) Be signed by the applicant, or the applicant's authorized agent.

(g) Give such other data and information as required by the Building Official.

(h) Include payment of a Development Impact Fee is required by Article 9-15 of this Unified Land Development Code. No building permit shall be issued until such fees have been paid.

Section 16-6-9. Action on Permit Application

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons for the rejection. If the Building Official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the Building Official shall issue a permit as soon as practicable.

Section 16-6-10. Time Limitation of Application

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be required in writing and justifiable cause demonstrated.

Section 16-6-11. Validity of Permit

The issuance or granting of a permit shall not be construed to be a permit for, or approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other date. The Building Official is also authorized to prevent occupancy or use of a structure in violation of this code or of any other ordinances of this jurisdiction.

Section 16-6-12. Expiration

Every permit issued shall become invalid unless the work on the site authorized by such permit commences within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Section 16-6-13. Suspension or Revocation

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or based on incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

Section 16-6-14. Placement of Permit

The building permit or copy shall be kept on the site of the work until the completion of the project.

CHAPTER 16-7 CONSTRUCTION DOCUMENTS

Section 16-7-1. Submittal Documents

Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Section 16-7-2. Exception

The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

Section 16-7-3. Information on Construction Documents

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

(a) Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

(b) Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups R-2 and R-3 as applicable in Section 101.2 of the International Building Code, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

(c) Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings.

The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system, which was tested, where applicable, as well as the test procedure used.

Section 16-7-4. Site Plan

The construction documents submitted with the application for permit shall be accompanied by a site plan drawn to scale indicating the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

Section 16-7-5. Examination of Documents

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Article and other pertinent laws or ordinances.

Section 16-7-6. Approval of Construction Documents.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." The Building Official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or his authorized representative.

Section 16-7-7. Previous Approvals

This Article shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith, within 180 days after the effective date of this code.

Section 16-7-8. Phased Approved

The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

Section 16-7-9. Design Professional in Responsible Charge

(a) When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

(b) The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

(c) Where structural observation is required by Section 1709 of the International Building Code, as amended, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. See also duties specified in Section 1704 of the International Building Code, as amended.

Section 16-7-10. Deferred Submittals

(a) For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the Building Official within a specified period.

(b) Deferral of any submittal items shall have the prior approval of the Building Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Official.

(c) Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge that shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Building Official.

Section 16-7-11. Amended Construction Documents

Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

Section 16-7-12. Retention of Construction Documents

The Building Official shall retain one set of approved construction documents for a period of not less than 180 days from the date of completion of the permitted work, or as otherwise required by state or local laws.

CHAPTER 16-8 TEMPORARY STRUCTURES AND USES

Section 16-8-1. Generally

The Building Official is authorized to issue a permit for temporary structures and temporary uses as defined in Chapter 9-11. Such permits shall be limited as to time of service, but may not be permitted for more than 180 days. The Building Official is authorized to grant extensions for demonstrated cause.

Section 16-8-2. Conformance

Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary equipment of this code as necessary to ensure the public health, safety and general welfare.

Section 16-8-3. Temporary Power

The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the NEC Electrical Code.

Section 16-8-4. Termination of Approval

The Building Official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

CHAPTER 16-9 FEES

Section 16-9-1. Payment of Fees

A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

Section 16-9-2. Schedule of Permit Fees

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City Council. In addition, if required by Article 15 of this ULDC, applicants for building permits shall pay a development impact fee as specified in said Article.

Section 16-9-3. Building Permit Valuations

(a) The applicant for a permit shall provide an estimated permit value at time of application which shall include the total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Final building permit valuation shall be set by the Building Official.

(b) Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established by the Building Official that shall be in addition to the required permit fees.

Section 16-9-4. Related Fees

The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

Section 16-9-5. Refunds

The Building Official is authorized to establish a refund policy; provided, however, that this shall not authorize the Building Official to establish refund policies for development impact fees collected pursuant to Article 15 of this ULDC. Refunds of development impact fees shall be authorized only by the Impact Fee Administrator in accordance with applicable provisions of Article 15.

CHAPTER 16-10 INSPECTIONS

Section 16-10-1. Generally

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Section 16-10-2. Preliminary Inspection

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

Section 16-10-3. Required Inspections

The Building Official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10 of the Building Code.

(a) Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94; the concrete need not be on the job.

(b) Concrete slab or under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.

(c) Lowest floor elevation. The elevation certification required in Section 1612.5 of the International Building Code, as amended, shall be submitted to the Building Official.

(d) Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

(e) Lath or gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished. Exception: Gypsum board that is not part of a fire-resistive assembly or a shear assembly.

(f) Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

(g) Other inspections. In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

(h) Special inspections. For special inspections, see Chapter 17 of the International Building Code.

(i) Final Inspection. The final inspection shall be made after all work required by the building permit is completed.

Section 16-10-4. Inspection Agencies

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

Section 16-10-5. Inspection Requests

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this code.

Section 16-10-6. Approval Required

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this Article. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

CHAPTER 16-11 CERTIFICATE OF OCCUPANCY

Section 16-11-1. Use and Occupancy

No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the jurisdiction.

Section 16-11-2. Change in Use

Changes in the character or use of an existing structure shall not be made except as specified in Chapter 34 of the International Building Code, as amended.

Section 16-11-3. Submittals Required for Certificate

Upon completion of the final inspection, the owner or authorized agent shall submit the following required documents to the building official:

(a) Stormwater Inspection and Maintenance Agreement, signed.

(b) Maintenance bond.

(c) As-built drawings certified by professional engineer.

(d) Drainage easement shown on final as-built and plat.

(e) Certification of stormwater management system installation and final landscaping establishment.

The building official is not authorized to issue a certificate of occupancy unless these documents have been submitted and completed to the city's satisfaction.

Section 16-11-4. Certificate Issued

After the building official inspects the building or structure and finds no violations of the provisions of this Code or other laws that are enforced by the department of building safety; and upon receipt of the required documents set forth in Section 16-11-3, the building official shall issue a certificate of occupancy that shall contain the following:

(a) The building permit number.

(b) The address of the structure.

(c) The name and address of the owner.

(d) A description of that portion of the structure for which the certificate is issued.

(e) A statement that the described portion of the structure has been inspected for compliance with the requirements of this Code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

(f) The name of the building official.

(g) The edition of the code under which the permit was issued.

(h) The use and occupancy, in accordance with the provisions of Chapter 3 of the International Building Code, as amended.

(i) The type of construction as defined in Chapter 6 of the International Building Code, as amended.

(j) The design occupant load.

(k) If an automatic sprinkler system is provided, whether the sprinkler system is required.

(l) Any special stipulations and conditions of the building permit.

Section 16-11-5. Temporary Occupancy

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions can be occupied safely. The building official must set a time period during which the temporary certificate of occupancy is valid.

Section 16-11-6. Revocation

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this Code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Code.

Section 16-11-7. Service Utilities

(a) Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this Code for which a permit is required, until released by the building official.

(b) Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

(c) Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical.

CHAPTER 16-12 BUILDING BOARD OF APPEALS

Section 16-12-1. Generally

In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and is hereby created a building board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business. See Appendix "B" of the I. B. C., current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia.

Section 16-12-2. Limitations on Authority

An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Section 16-12-3. Qualifications

The building board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

CHAPTER 16-13 VIOLATIONS AND PENALTIES

Section 16-13-1. Violations

Any person who shall violate any of the provision of this Article or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, and shall be punished as provided in Section 1-1-7 of the City of Gainesville Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each 10 days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 16-13-2. Notices

(a) Whenever the building inspection department is satisfied that systems, appliances or equipment, or any work in connection therewith that is covered by this Chapter, is being erected, installed, altered or repaired, in violation of the provisions or requirements of this Chapter, or in violation of plans or specifications submitted and approved there under, or a permit issued there under, it shall serve a written notice or order upon the person responsible therefore directing discontinuance of such illegal action and the remedying of the condition that is in violation of the provisions or requirements of this article.

(b) In case such notice or order is not promptly complied with, the building inspection department shall notify the city manager that shall take appropriate action to correct or remove such violation.

Section 16-13-3. Stopping Work

Whenever work is in progress which is, in the opinion of the Building Official, by reason of defective or illegal work in violation of a provision or requirement of this Chapter, the Building Official shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.

Section 16-13-4. Abatement

The imposition of the penalties prescribed in this Chapter shall not preclude the city from instituting an appropriate action or proceeding to prevent the unlawful erection, installation, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the use of any systems, appliances or equipment covered by this Chapter, or to prevent any illegal act, conduct, business or use in or about any premises.

CHAPTER 16-14 ADDITIONAL PROVISIONS FOR BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Section 16-14-1. Building Permit Required

(a) A building permit issued by the building official is required in advance of the initiation of construction, erection, moving or alteration of any building or structure. All buildings and structures shall comply with the requirements of this Code, whether or not a building permit is required.

(b) Building permits for all buildings, structures and interior finishes shall be required and shall be issued after application and demonstration through building plans that the building, structure, or interior finish will meet all applicable requirements of the Life Safety Code and the various health and building codes of the city and as may be applicable.

Section 16-14-2. Lot of Record

Building permits shall only be issued on lots of record, as defined in this Code. If an application for building permit is received on a tract or parcel that is not a lot of record, the building permit applicant shall be required to subdivide the land in accordance with Article 11.

Section 16-14-3. Land Development Permit

Prior to issuance of a building permit, the owner shall have received a land development permit if required by Chapter 11-6 or Chapter 12-1.

Section 16-14-4. Environmental Health Approval

For any building, structure, or land development activity served by a decentralized wastewater system, a permit shall be required and must be applied for and approved and issued by the Hall County Environmental Health Department prior to issuance of a building permit. Said permit may require a plan showing the location of the sewage disposal system and other on-site improvements, in accordance with said department's regulations.

Section 16-14-5. Water Supply Approval

A building permit shall not be issued prior to issuance of a well permit by the Hall County Environmental Health Department or water meter approved by the city Department of Water Resources.

Section 16-14-6. Application Requirements for Building Permits

Application for a building permit shall be made to the building official. Building permit applications shall include all information necessary as determined by the building official for thorough review and approval, and shall specifically include the following:

(a) Application form. Application on the form furnished by the building official, requesting issuance of a building permit.

(b) Fee. Payment of the building permit application and review fee, and payment of any development impact fees required by Article 15.

(c) Plat or plan. For a single-family detached or two-family dwelling, a plat and one set of plans. For a multi-family or nonresidential building, a site plan upon which has been approved by the Department of Community and Economic Development.

(d) Building plans. Four sets of architectural plans and three sets of approved civil drawings from the Department of Community and Economic Development for principal multi-family or non-residential buildings prepared in conformance with this Code and the applicable building codes. Plans shall be

prepared by or under the supervision of, or reviewed and approved by, an architect registered in the state, who shall sign and seal each sheet in the original set of drawings.

(e) Zoning compliance. Prior to issuing a building permit, the building official shall require that the applicant for a building permit obtain zoning verification from and review for compliance with this Code by the Department of Community and Economic Development. A copy of conditions of zoning, special use approval, or variance approval, and verification of zoning compliance shall be submitted, if applicable.

(f) Address. A street address number as assigned by the city.

(g) Septic tank approval by the Hall County Environmental Health Department. Evidence of approval by the Hall County Environmental Health Department if an on-site sewage disposal system has been allowed.

(h) Water meter receipt. Water meter receipt issued by the Department of Water Resources, if connection to city water is involved.

Section 16-14-7. Review of Building Permit Application for Completeness

The application for building permit shall be checked by the Building Official for completeness at the time of submission. Incomplete applications will be returned to the applicant.

Section 16-14-8. Review of Building Permit Application

(a) Within two weeks following receipt of a complete application, the building plans review officer shall indicate on one copy of the building plans or in writing all comments related to compliance of the building plans with applicable building codes, and any conditions of zoning, special use, or variance approval, and any other applicable requirements of this Code. The building plans review officer shall seek the review by and approval of the state fire marshal prior to issuing a building permit. If changes are required to building plans, the owner shall be responsible for compliance with this article and all building code requirements, regulations, and for the satisfaction of all the comments of the building official and other administrative officers responsible for the review of building permits.

(b) The time frames established by this chapter for the issuance of building permits shall not apply to the extent that compliance with Article 15 relative to payment of development impact fees has not been accomplished within the time frames established by this chapter.

Section 16-14-9. Building Permit Approval

A building permit shall be issued for the building or structure when the owner has addressed the comments to the satisfaction of building official, state fire marshal, and other administrative officers responsible for the review of building permits, and upon demonstrating that the building or structure conforms with the technical codes adopted and amended by the city under chapter 5-2 of the City of Gainesville Code of Ordinances.

Section 16-14-10. Related Permits

Plumbing, electrical and mechanical permits shall be issued separately by the building official or separately identified on the building permit. Such permits must be issued prior to commencement of work by each affected trade.

Section 16-14-11. Building Inspection

Building inspections shall be conducted in accordance with the requirements and procedures of the City.

Section 16-14-12. Certificate of Occupancy Required

A certificate of occupancy shall be required and must be issued by the building official prior to the occupancy or use of any new or newly renovated building or structure, in accordance with the procedures established in this chapter. Specifically, a certificate of occupancy shall be required for the following activities (not exhaustive):

(a) Prior to occupancy and use of a building or structure, whether newly constructed or enlarged.

(b) Change in use of existing buildings to uses of a different classification.

(c) Any change in use of a nonconforming use.

Section 16-14-13. Occupancy Without Certificate is Unlawful

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy shall have been issued therefore by the building official stating that the proposed use of the building or land conforms to the requirements of this Code and other applicable codes and ordinances adopted by the city.

Section 16-14-14. Connection to Electric Power

Permanent electric power shall not be supplied to any building or structure until a certificate of occupancy shall have been issued and the power company provided with evidence of approval by the Building Official.

Section 16-14-15. Suspension of Permits and Certificates

(a) The building official may withhold, revoke, or suspend a building permit or certificate of occupancy when violations occur.

(1) The term “violations” as used in the preceding sentence shall include violations of local, state, and/or federal law, including but not limited to criminal law.

(b) If the certificate of occupancy is revoked for criminal violations, no new certificate of occupancy shall be issued at that location for the same use for 12 months immediately following revocation. Revocation of a certificate of occupancy shall automatically revoke the business/occupational tax (business license).

CHAPTER 16-15 ADDITIONAL PROPERTY MAINTENANCE REQUIREMENTS

Section 16-15-1. Definitions

Unless otherwise specifically provided, terms not defined in this chapter shall have their meaning as defined in other chapters and articles of this Unified Land Development Code, or in the absence of such definition, words shall have their common dictionary definitions. The following definitions shall apply in the administration, interpretation, and enforcement of this chapter:

Boarding-up: Erecting, installing, placing, or maintaining boards over the doors, windows, or other openings of any building or structure, or otherwise securing such openings by a means other than the conventional method used in the original construction and design of the building or structure.

Code official: The community and economic development director of the city of Gainesville, or any other official charged with the administration and enforcement of this chapter, including but not limited to the building official or code enforcement officer, or any duly authorized representative of any such official.



Community donation box: A receptacle for receiving donations such as clothes, shoes, household goods and furniture. Small receptacles specifically designed for the donation of books or food are exempt from the regulations of this chapter.

Let for occupancy or let: To permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

Maintenance: The act of keeping property, premises, buildings, structures, equipment, or vegetation in a proper condition so as to prevent their decline, failure, or uncontrolled growth.

Multi-family: For the purposes of this chapter, multi-family is a building, or collection of buildings on the same property, under single ownership that is designed for or occupied exclusively by six or more families with separate household facilities for each family. This term includes attached residential condominiums, row houses and apartments.

Occupant: Any individual living or sleeping in a building or having possession of a space within a building.

Operator: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy. A real estate broker or salesperson licensed pursuant to Chapter 40 of Title 43 of the O.C.G.A. is not an operator for the purpose of this chapter unless such broker or salesperson is under contract to provide property management services to the owner of such structure or premises.

Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including but not limited to the guardian, executor, or administrator of the estate of any such person.

Person: An individual, corporation, partnership or any other legally recognized entity.

Premises: A lot, plot or parcel of land, easement or public way, including any structures thereon.

Property: Any unimproved or improved residential or non-residential real property, or portion thereof, situated in the City of Gainesville, including the buildings, structures and improvements located on the real property, regardless of condition.

Registered agent: A person who resides in Hall County, Georgia, or has a brick and mortar business address in Hall County, who is assigned by an owner of a multi-family residential property, as defined in this chapter, to be available seven days a week to accept notices of violation regarding any provision of the Gainesville City Code of Ordinances or Unified Land Development Code, who has the authority and ability to grant access to the building or property by city personnel upon request, and who is registered with the city in accordance with the requirements of this chapter.

Tenant: A person, corporation, partnership, group, or other legally recognized entity, whether or not the legal owner of record, occupying a building or portion thereof.

Section 16-15-2. Responsibility

(a) It is the duty of the owner of every dwelling, building, structure, property or premises within the city to construct and maintain such dwelling, building, structure, property or premises in conformance with applicable codes in force within the city, including but not limited to this Unified Land Development Code and the Code of Ordinances of the City of Gainesville.

(b) Both the occupant and the owner of the premises shall be liable for compliance with the provisions of this chapter and shall be responsible for violations thereof. Any let of property of an owner which purports to transfer responsibility for this provision shall be ineffective in shielding the owner for

responsibility under this chapter, and such owner shall remain liable, along with the occupant of the premises.

(c) The owner and occupant of the premises shall maintain structures and property in compliance with the requirements of this chapter.

(d) A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.

(e) Owners and occupants of property are responsible for keeping in a clean, sanitary and safe condition that part of the property which they occupy and control.

(f) All vacant structures and premises, as well as vacant land, shall be maintained in a clean, safe, secure and sanitary condition as provided in this chapter so as not to cause a blighting problem or adversely affect the public health or safety.

(g) Any property owners or occupants with properties that are not in compliance at the time of the adoption of this chapter shall have no more than 60 days to bring properties into compliance with this chapter.

Section 16-15-3. Transfer of Ownership

It shall be unlawful for the owner of any building, structure, property, or premises who has received a notice of violation of this chapter, or other provision within the Unified Land Development Code or Code of Ordinances of the City of Gainesville to sell, transfer, mortgage, lease or otherwise dispose of such building, structure, property, or premises until said violation has been remedied, or until such owner shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice of violation and fully accepting the responsibility, without condition, for making the corrections or repairs required by the notice of violation.

Section 16-15-4. Registered Agents

(a) Prior to the issuance of a business occupation tax certificate for any multi-family residential property, or during the first 30 calendar days of each year, whichever occurs earlier, the owner and each occupation tax certificate holder for any multi-family residential property must annually designate the name, Hall County address, and 24 hour phone number of a registered agent for the multi-family residential property.

(b) The registered agent must meet all criteria of a registered agent as established by this chapter.

(c) The designation required by this section shall be submitted to the city's business tax and licensing division. Such designation shall be confirmed at the time of each annual designation of the registered agent.

(d) In the event that the holder of an occupational tax certificate or the owner of the property desires to change the name or contact information of the registered agent, the occupational tax certificate holder and/or owner shall supply written notice to the city's business tax and licensing division. No change in registered agent shall be effective until written notice thereof is received by the city's business tax and licensing division.

(e) The registered agent shall give consent to enter multi-family residential property and buildings thereon to a code official upon request.

Section 16-15-5. Defacement of Property

(a) No person shall willfully or wantonly damage, mutilate or deface any interior or exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(b) It shall be a violation of this chapter for any owner of real property to permit graffiti to remain on a structure located thereon for a continuous period of more than 72 hours. For purposes of this section, the term "graffiti" shall have the same meaning as set forth in O.C.G.A. § 17-15A-2.

Section 16-15-6. Outdoor Furniture

(a) Only furniture which is fabricated with materials appropriate to be maintained outside of a dwelling or structure shall be permitted to be placed on a porch of a dwelling, building, or structure, or placed in any other exterior area of a property.

(b) No furniture (e.g., couches, chairs covered with fabric, recliners, etc.) which is fabricated with materials intended only to be used, kept, or maintained on the interior of a dwelling building, or structure, or which will rot, decompose or degrade in outdoor conditions, shall be kept, stored, or maintained on a porch of a dwelling, building, or structure, or placed in any other exterior area of a property.

Section 16-15-7. Plastic or Impervious Covers

(a) Except for those covers specifically designed for the purpose of covering conventional outdoor equipment, such as a gas grill, patio furniture, lawnmower, etc., it shall be unlawful for any person to erect or utilize any plastic or nylon tarp or other impervious covering, on any porch of a dwelling, building, or structure, or in any exterior area of a property.

(b) The pitching of a camping tent, or a temporary movable structure, shall not violate this section, provided it is erected for no more than 72 consecutive hours on the property.

(c) The covering of firewood with a clear plastic or brown tarp shall not violate this section, provided such firewood is stored in a side or rear yard of the property.

Section 16-15-8. Vacant Structures

Vacant structures shall be maintained in good repair and comply with all applicable laws, codes, and ordinances. Any vacant structure shall, at a minimum:

(a) Have all doors, windows, and other openings weather-tight and secured against entry by the general public as well as animals and pests. The vacant structures shall be secured using the conventional methods used in the original construction.

(b) All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage to prevent deterioration of the interior walls or other interior portions of the structure.

(c) The structure must be maintained in good repair and must be structurally sound and free from rubbish, garbage and other debris.

(d) Supporting parts of the structure shall be capable of bearing all loads making up the parts of and contents of the structure, and the foundation walls likewise shall be capable of supporting such loads.

(e) The exterior of the structure shall be free of loose or rotten materials, as well as holes. Any exposed metal, wood or other surface shall be protected from the elements by appropriate weather coating materials such as paint or similar treatment.

(f) All balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair and appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the elements against rust or decay by appropriate application of paint or similar weather coating.

(g) Any accessories or appurtenant structures, including but not limited to garages, sheds or other storage facilities shall meet the standards set forth in this section.

(h) Retaining walls, drainage systems, or other structures must be maintained in good repair and be structurally sound. Any existing fence shall be maintained in good repair and be structurally sound.

Section 16-15-9. Boarding-up Structures

(a) Boarding-up permit. No person shall erect, install, place, or maintain boards over the doors, windows or other opening of any building or structure or otherwise secure such opening by a means other than the conventional method used in the original construction and design of the building or structure without first obtaining a boarding-up permit in accordance with this section.

(b) Permit application requirements. The Department of Community and Economic Development may issue a boarding-up permit only upon satisfaction of the following conditions:

(1) Submission of a written application including such information as specified by the department on a boarding-up permit application made available to the public; and

(2) Submission of a written statement specifying the length of time the owner expects the boarding-up to take place or continue, a plan to secure or board up the structure including manner and materials, and a proposed maintenance plan for monitoring and maintenance of the structure and premises in conformance with this chapter. The Department of Community and Economic Development may conduct an inspection of the subject property at any time to ensure that the structure is boarded up in accordance with the plan approved by the department.

(c) Duration of permit and renewal. A boarding-up permit issued pursuant to this section shall authorize the boarding-up or other securing of a building or structure for a period of no longer than 6 months. An owner of a property desiring to continue to board-up property beyond 6 months must submit a renewal application to renew the boarding-up permit and continue to meet the requirements for the issuance of a renewal boarding-up permit. Only one 6-month renewal permit will be issued for each property. Application for a renewal boarding-up permit must be made within 30 days of the expiration of the original permit.

(d) Temporary emergency. No boarding-up permit shall be required to board-up a building for up to 30 days in the event of a temporary emergency situation, including but not limited to damage caused by vandalism, theft, fire, or weather. In the event an emergency situation requires a building or structure to be boarded-up for more than 30 days, the owner of the building or structure or the owner's authorized representative must obtain a valid building permit for repair or a valid boarding-up permit in accordance with this section.

(e) Boarding specifications. The boarding of doors, windows, or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall be according to the specifications approved under the boarding-up permit. All boarded openings shall be painted with a minimum of two coats of exterior paint, which shall be of a color compatible with the exterior color of the building or structure.

(f) Any structure which is boarded-up shall be posted with the name, permit information, and 24-hour contact phone number of the owner of the property.

Section 16-15-10. Burned Structures

(a) Whenever any building or structure is partially burned, or burned to such an extent that it is rendered incapable of being repaired, the owner shall, within 60 days after completion of the scene investigation by the fire department and/or insurer of the property, remove from the premises all refuse, debris, and all charred and partially burned lumber and materials.

(b) If such building or structure is burned to such an extent that it is incapable of being repaired, the remaining portion of the building or structure shall be removed from the property within 60 days after completion of the scene investigation by the fire department and/or insurer of the property.

(c) If the building or structure is to be repaired, a permit shall be obtained and work shall begin within 60 days after completion of the scene investigation by the fire department and/or insurer of the property and shall be completed within 180 days from the date a permit is obtained.

Section 16-15-11. Community Donation Boxes

(a) It shall be unlawful to erect or maintain community donation boxes in an exterior property area, unless approved by the Director of Community and Economic Development in compliance with one of the following criteria:

(1) It is located in a Light Industrial (L-I) or Heavy Industrial (H-I) zoning district; or

(2) It is located on the same property as a business or organization with a 501(c)(3) designation.

(b) Where approved, community donation boxes shall be located flush against a building wall and shall be maintained on a regular basis in compliance with the Unified Land Development Code and Code of Ordinances of the City of Gainesville.

Section 16-15-12. Inoperable Accessory Items

Inoperable accessory items such as telephone booths, satellite dishes, electrical wires, lighting, poles, magazine stands, coolers, heating/cooling equipment or other similar items are not permitted and shall be removed and appropriately stored so as not to be visible from the right-of-way or adjacent property.

ARTICLE 17 BOARDS AND COMMISSIONS

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CHAPTER 17-1 PLANNING AND APPEALS BOARD

Section 17-1-1. Establishment and Continuation

The Planning and Appeals Board, as it existed on the effective date of this ordinance, shall continue in its present form and function. The Planning and Appeals Board shall consist of seven members, all of whom shall be residents of the city.

Section 17-1-2. Appointments, Terms of Office and Vacancies

Members, including the chairperson and vice-chairperson, shall be appointed by the Governing Body. The seats on the Planning and Appeals Board shall be designated as Seats One, Two, Three, Four, Five, Six and Seven, and the initial terms for said Seats shall be set forth in this as follows.

The initial term for Seat One shall extend through December 31, 2025.

The initial term for Seat Two shall extend through December 31, 2025.

The initial term for Seat Three shall extend through December 31, 2026.

The initial term for Seat Four shall extend through December 31, 2026.

The initial term for Seat Five shall extend through December 31, 2026.

The initial term for Seat Six shall extend through December 31, 2027.

The initial term for Seat Seven shall extend through December 31, 2027.

The Governing Body, upon approval of this Ordinance, shall appoint members, including the chairperson and vice-chairperson, to fill Seats, One, Two, Three, Four, Five, Six, and Seven on the Planning and Appeals Board. After the expiration of the initial terms set forth above, all subsequent members, including the chairperson and vice-chairperson, shall be appointed by the Governing Body to three-year terms, beginning on January 1st of the calendar year, immediately following the expiration of the term or as otherwise appointed. When a position becomes vacant before the end of the term, the Governing Body shall appoint a new member for the duration of the remaining term. A member of the Planning and Appeals Board may be appointed to successive terms and shall continue to serve if such member's time expires until a successor is appointed.

A member may be removed from the Planning and Appeals Board by a majority vote of the Governing Body for cause, for absenteeism at three successive called or regular meetings or absenteeism at six such meetings in a calendar year, or for other reasons the Governing Body may deem appropriate.

Section 17-1-3. Qualifications of Members and Mandatory Training

In addition to being residents of the City, the Governing Body in its appointment of members to the Planning and Appeals Board shall be bound by the following:

(a) Two members of the Planning and Appeals Board, other than the Chairperson, shall have experience or knowledge in the fields of real estate, land development, architectural design, landscape architecture, building construction, planning or a similar profession.

(b) Four members of the Planning and Appeals Board, other than the Chairperson, shall be recognized community leaders having experience or knowledge in representing the interests of citizens, residential areas or non-profit organizations dedicated to public purposes.

(c) The Chairperson shall be a community leader who has demonstrated the ability to conduct meetings, organize debate and to act in the public interest of the City as a whole.

(d) Within one year of initial appointment to the Planning and Appeals Board, any new member shall attend the Community Planning Institute or comparable training as determined by the Director of Community and Economic and Development.

The Governing Body shall make the sole determination as to the qualifications of any person in meeting the requirements for membership on the Planning and Appeals Board.

Section 17-1-4. Officers

The Chairperson, as appointed by the Governing Body, shall preside over meetings when present. The Planning and Appeals Board shall elect a Vice Chairperson from among its members, who shall serve for one year or until re-elected or until his or her successor is elected. The Vice Chairperson shall preside at meetings in the absence of the Chairperson.

Section 17-1-5. Bylaws and Rules of Procedure

The Planning and Appeals Board may adopt such by-laws, rules or procedures as appropriate and not in conflict with this Unified Land Development Code, the Zoning Procedures Act, or policies adopted by the Governing Body.

Section 17-1-6. Meetings

The Planning and Appeals Board shall meet each month in accordance with the schedule of meeting dates and times approved by the Community and Economic Development Department Director. Other meetings of the Planning and Appeals Board shall be held at the call of the Director if there is business to be brought before it, or at such other times as the Planning and Appeals Board may determine. All meetings of the Planning and Appeals Board shall be open to the public.

Section 17-1-7. Quorum

A total of four Planning and Appeals Board members present shall constitute a quorum. A majority vote of the quorum shall be necessary to approve any decision or recommendation.

Section 17-1-8. Voting

All Planning and Appeals Board members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record.

Section 17-1-9. Secretary and Record of Proceedings

The Director of Community and Economic Development or their designee shall serve as secretary to the Planning and Appeals Board. The secretary shall cause summary minutes of its proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, and shall cause records of its examinations and other official actions to be kept in recorded form, all of which shall be of public record.

Section 17-1-10. Dissemination and Posting of Actions

The results of each Planning and Appeals Board meeting as to their actions and recommendations shall be forwarded by the Director of Community and Economic Development or their designee to the Governing Body, and they shall

be posted in a public place at the Department of Community and Economic Development for a period of at least two weeks following the Planning and Appeals Board meeting.

Section 17-1-11. Powers and Duties

The Planning and Appeals Board shall have without limitation the following powers and duties:

(a) Recommendations on comprehensive plan. Review the provisions of the City's Comprehensive Plan from time to time, and to make such recommendations to the Governing Body as it deems appropriate concerning its adoption or amendment.

(b) Recommendations on annexation, rezoning and special use applications. Conduct a public hearing on each application for rezoning or special use approval, in accordance with the standards and procedures set forth in this Unified Land Development Code and the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.), and make such recommendations to the Governing Body as it deems appropriate on each application.

(c) Decisions on variances. Conduct a public hearing and make a final decision in accordance with the procedures and provisions of this Unified Land Development Code on each application for a zoning variance or flood protection variance.

(d) Decisions on administrative appeals. Conduct a public hearing and make a final decision in accordance with the procedures and provisions of this Unified Land Development Code on each appeal of an administrative decision pursuant to this Code or an interpretation of the provisions of this Code by an administrative officer. In exercising these powers regarding an appeal of an administrative decision, the Planning and Appeals Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determinations of the administrative official, and to that end shall have the power to direct issuance of a permit.

Other powers. The Planning and Appeals Board shall also have such other powers, duties or responsibilities assigned to it by the Governing Body, explicitly assigned by this Unified Land Development Code, or reasonably implied by Code.

CHAPTER 17-2 HISTORIC PRESERVATION COMMISSION

Section 17-2-1. Definitions

(a) **Commission**: The Historic Preservation Commission of the City of Gainesville, Georgia.

(b) **Designation**: A decision by the Governing Body to designate such property or district as a "historic property" or "historic district" and thereafter prohibit all material changes in appearance prior to the issuance of a Certificate of Appropriateness.

(c) **Historic district**: A geographically definable area as designated by the Governing Body which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character.

(1) Exhibit a special character or special historical, architectural, or environmental character, or aesthetic interest or value;

(2) Represent one or more periods or styles of architecture typical of one or more eras in history; and

(3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

(d) **Historic preservation jurisdiction**: All properties lying within the municipal limits of the City of Gainesville, Hall County, Georgia.

(e) **Historic landmark**: An individual structure, site, or work of art , including the adjacent area necessary for the proper appreciation of use thereof, deemed worthy of preservation of its value to the city, county, state or region for one of more of the following reasons:.

(1) It is an outstanding example of a structure representative of its era;

(2) It is one of the few remaining examples of a past architectural style;

(3) It is a place or structure associated with an event or person of historic or cultural significance to the city, county, state or region; or

(4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state or region.

Section 17-2-2. Establishment and Continuation

There is hereby created a commission, the title of which shall be "Gainesville Historic Preservation Commission" (hereinafter referred to as the "Historic Preservation Commission"); which shall be considered a part of the planning functions of the City. The Commission as it existed on the effective date of this Unified Land Development Code shall continue in full force and function.

Section 17-2-3. Appointments, Qualifications, Terms, Vacancies and Compensation

(a) Appointments. The Preservation Commission shall consist of five voting members appointed by the Governing Body. The Governing Body may also appoint a citizen to serve as an ex-officio, non-voting member who serves in an advisory capacity only.

(b) Qualifications. All members whether voting or ex-officio shall reside within the city limits of Gainesville, and a majority shall be either persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources; or persons who are among professionals in such related disciplines.

(c) Terms of office. Voting members shall serve staggered three-year terms; and may be reappointed. In order to achieve staggered terms, initial appointments shall be: one member for one year; two members for two years; and two members for three years. Historic Preservation Commission members shall serve

until their terms expire or until re-appointed or until their successors are appointed. Ex-officio, non-voting members shall serve a one-year term, until their term expires, or until re-appointed or until their successors are appointed.

(d) Vacancies. Should a vacancy exist in the membership, the Historic Preservation Commission shall continue to act with full authority, unless total Commission membership falls below a majority for the five-member board. The Governing Body shall be notified of the vacancy so that an appointment can be made to fill such vacancy for the remainder of the unexpired term.

(e) Compensation. All voting and ex-officio, non-voting members shall serve without compensation.

(f) Mandatory Training: Within one year of initial appointment to the Historic Preservation Commission, the new member shall attend the Historic Preservation Commission Training or comparable training as determined by the Director of Community and Economic Development.

Section 17-2-4. Disqualification and Removal

A member may be removed from the Historic Preservation Commission by a majority vote of the Governing Body for cause, for absenteeism at three successive called or regular meetings or absenteeism at six such meetings in a calendar year, for relocation of his or her permanent residence outside the municipal limits of Gainesville, for violation of the Code of Conduct of the Historic Preservation Commission in the consideration of an application for a Certificate of Appropriateness or other responsibility under this Unified Land Development Code, or for other reasons the Governing Body may deem appropriate.

Section 17-2-5. Rules and Standards

The Historic Preservation Commission, upon holding a public hearing and providing an opportunity for the public to comment, shall adopt rules and standards – including design and construction guidelines – for the transaction of business and for consideration of applications; and the Commission shall have the flexibility to adopt rules and standards, including design and construction guidelines, without amendment to this Unified Land Development Code.

Section 17-2-6. Meetings

The Historic Preservation Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The latest edition of Robert's Rules of Order shall determine the order of business.

Section 17-2-7. Quorum

A quorum shall consist of a majority of the voting members. Should a vacancy exist in the membership, the Historic Preservation Commission shall continue to act with full authority, unless the number of voting members falls below the majority of members or quorum.

Section 17-2-8. Officers

(a) The Historic Preservation Commission shall select a Chairperson and Vice Chairperson.

(b) The Chairperson shall be elected by the members of the Historic Preservation Commission from among their membership for a one-year term; elections shall be held annually at the first regularly scheduled meeting in July or at the next regular meeting thereafter. The Chairperson shall decide all points of order and procedure, subject to these bylaws and the latest edition of *Robert's Rules of Order*.

(c) The Vice Chairperson also shall be elected by the members of the Historic Preservation Commission from among their membership in the same manner as the Chairperson and shall be eligible for re-election. The Vice Chairperson shall serve as Acting Chairperson in the absence of the Chairperson, or when the Chairperson shall refrain from participation due to a conflict of interest, and shall have the same powers

and duties as the Chairperson. Upon resignation or disqualification of the Chairperson, the Vice Chairperson shall assume the chairmanship for the remainder of the unexpired term. The Historic Preservation Commission shall elect a new Vice Chairperson at its next regular meeting.

Section 17-2-9. Voting

All Historic Preservation Commission members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record following the procedures outlined in Section 17-2-10 below.

Section 17-2-10. Conflicts of Interest

No member shall participate in the consideration of or cast a vote on any issue before the Preservation Commission which involves an ownership, financial or professional interest of that individual or an organization in which that member has an ownership, financial or professional interest or position, or represents. No member shall participate in the consideration of or cast a vote on any matter which provides or could provide financial or professional benefit to that member. When a conflict of interest or the appearance of a conflict of interest arises, the following actions shall be taken:

(a) The individual member shall divulge in a brief statement on the public record the existence of and reasons for the potential conflict and abstain from voting.

(b) The affected member shall not present, vote or discuss the project other than answer a direct question.

Section 17-2-11. Secretary and Records of Proceedings

A public record shall be kept of the Historic Preservation Commission's resolutions, proceedings and actions. The Director of Community and Economic Development, or their designee, shall serve as secretary to the Historic Preservation Commission. The secretary shall cause summary minutes of its proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall cause records of its examinations and other official actions to be kept in recorded form, all of which shall be of public record.

Section 17-2-12. Dissemination and Posting of Actions

The results of each Historic Preservation Commission meeting as to their actions and recommendations shall be forwarded by the Director of Community and Economic Development or his or her designee to the Governing Body, and they shall be posted in a public place at the Department of Community and Economic Department for a period of at least two weeks following the Historic Preservation Commission meeting.

Section 17-2-13. Powers, Duties and Responsibilities

(a) The Historic Preservation Commission shall have the powers, duties and responsibilities enumerated in this Section. The Community and Economic Development Department may assist the Historic Preservation Commission in fulfilling its powers, duties and responsibilities listed below, and to that end the Commission may delegate such powers, duties and responsibilities to the Community and Economic Department or consultant if one is retained.

(1) Prepare and maintain an inventory of all property within the historic preservation jurisdiction having the potential for designation as historic, or work with the Community and Economic Development Department staff, and outside consultant if services of one are retained, to prepare and maintain said inventory;

(2) Recommend to the Governing Body specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic;

(3) Review applications for Certificates of Appropriateness, and grant or deny such applications in accordance with the provisions of Chapter 19-3 of this Unified Land Development Code;

(4) Recommend to the Governing Body that the designation of any place, site, building, structure, or work of art as historic be revoked or removed, in accordance with the provisions of Chapter 19-2 of this Unified Land Development Code;

(5) Restore or preserve any historic properties acquired by the City;

(6) Promote the acquisition by the City of facade and conservation easements in accordance with the provisions of the "Georgia Uniform Conservation Easement Act" (O.C.G.A. Section 44 10 1 et seq.);

(7) Conduct educational programs on historic properties located within the historic preservation jurisdiction, or ask the Community and Economic Development Department staff to assist in conducting said educational programs;

(8) Make such investigations and studies of matters relating to historic preservation as the Governing Body deems necessary or appropriate, including consultation with historic preservation experts;

(9) Seek out state and federal funds for historic preservation and make recommendations to the Governing Body concerning the most appropriate use of any funds acquired;

(10) Consult with historic preservation experts in the Georgia Historic Preservation Division or its successor and the Georgia Trust for Historic Preservation, Inc.;

(11) Submit to the Georgia Historic Preservation Division or its successor a list of historic properties or historic districts designated as such;

(12) Review and make comments to the Historic Preservation Division concerning the nomination of properties within the City to the National Register of Historic Places;

(13) Participate in private, state, and federal historic preservation programs and with the consent of the governing body, enter into agreements to do the same;

(14) Perform historic preservation activities as the official agency of the City's historic preservation program; and

(15) Monitor the condition of designated historic properties and individual structures, sites or works of art located within a designated historic district to determine if a property is being allowed to deteriorate by neglect, and to fulfill its charges with regard to deterioration by neglect as assigned to it by this Unified Land Development Code.

(b) The following powers, duties, and responsibilities shall be delegated specifically to the Community and Economic Department staff to perform on behalf of the Historic Preservation Commission:

(1) The Director of Community and Economic Development, upon approval by the Governing Body and upon recommendation by and on behalf of the Historic Preservation Commission, shall have the authority to accept donations and may expend such finds (and keep records) consistent with historic preservation purposes and objectives, and shall ensure that these funds do not displace appropriated governmental funds if applicable;

(2) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts;

(3) Conduct educational programs on historic properties located within the historic preservation jurisdiction;

(4) Seek out state and federal funds for historic preservation and make recommendations to the Governing Body concerning the most appropriate uses of any funds acquired;

(5) Submit to the Historic Preservation Section of the State Department of Natural Resources, or its successor, a list of historic districts and properties designated;

(6) Review and make comments, integrating the written statement of the Historic Preservation Commission, to the Historic Preservation Division of the State Department of Natural Resources concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;

(7) Retain the services of an outside consultant or expert to carry out various functions, duties, or responsibilities of the Historic Preservation Commission;

(8) Receive donations, grants, funds or gifts of historic property, and to acquire or sell historic properties upon approval of the Governing Body; and

(9) Enter negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of property upon approval of the Governing Body.

Section 17-2-14. Limitation on Powers

The Historic Preservation Commission shall not have the power to obligate the city in any way without the concurrence of the Director of Community and Economic Development and prior approval of the Governing Body.

ARTICLE 18 APPLICATIONS AND PROCEDURES

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CHAPTER 18-1 DEFINITIONS

Section 18-1-1. Definitions

The following terms shall have the meaning in the Article as prescribed below:

Applicant. A property owner or their authorized representative who has petitioned the city for approval of an application under the terms of this article.

Application. A petition for approval of an application under the terms of this article.

Presiding official. The person chairing a meeting of the Planning and Appeals Board or the Governing Body in their official capacity.

Text amendment. An amendment to this ULDC.

Variance, Zoning. A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading, or other regulations which are dimensional in nature as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, and will not be contrary to the public interest.

Zoning decision. The final legislative action by a local government which results in:

(a) The adoption or repeal of a zoning ordinance;

(b) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

(c) The adoption or denial of an amendment to a zoning ordinance which rezones property from one zoning classification to another;

(d) The adoption or denial of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or

(e) The grant or denial of a permit relating to a special use of property;

(f) The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs (c) or (e) of this paragraph.

CHAPTER 18-2 ZONING CHANGES AND SPECIAL USE



Section 18-2-1. Generally

The official zoning map, and overlay zone maps, may be amended from time to time and zoning amendments may be approved for specific properties by the Governing Body under the procedures in this chapter. In addition, changes in the conditions of approval pertaining to a specific rezoning or special use approval may also be approved by the Governing Body following the procedures in this chapter. The procedures for special uses, which may be approved for specific properties, shall also be as provided in this chapter.

Section 18-2-2. Initiation

(a) An application for a rezoning or special use for any property or properties in the city may be initiated by the Governing Body, owner of the property, or some other person given authorization by property owner to file said application.

(b) Any applicant wishing to apply for rezoning or special use must schedule an appointment with the Community and Economic Development Department staff review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

(c) Any applicant wishing to file an application for a zoning change related to a planned unit development zoning district must schedule a conference with the Community and Economic Development Department staff at least 15 days prior to filing an application and shall also submit the additional application materials specified in Section 18-2-5.

Section 18-2-3. Requirements for Submittal

All applications for a rezoning or special use shall at a minimum consist of the following:

(a) Application form. A completed original application shall be submitted to the Community and Economic Development Department on forms provided by the City.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body initiates the application.

(c) Plat or boundary survey. A to-scale plat or boundary survey of the property or properties involved in the application, submitted in PDF or other format accepted by the City.

(d) Legal description. An electronic copy of the legal description of the property that corresponds with the property or properties shown on the submitted boundary survey/plat.

(e) Written narrative. A written narrative in electronic format indicating, at a minimum, the following:

(1) The purpose of the request, proposed use, economic and environmental impacts as well as overlay districts or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay.

(2) A full description of the concept plan including the proposed use, setbacks, right-of- way widths, building heights, signage, the maintenance and ownership of any streets or roads, and plans for the maintenance of any stormwater facilities.

(f) Architectural renderings. Architectural renderings in electronic format for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:

(1) Roof pitch;

(2) Materials to be used on exterior;

(3) Basic landscaping proposed; and

(4) Building elevations.

(g) Concept plan. An application for a rezoning or special use approval related to a residential subdivision, multi-family, or nonresidential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Code. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered.

(h) Traffic impact analysis. Any application for a rezoning or special use which exceeds the thresholds established in Section 18-4-4 shall submit a traffic impact analysis as specified in Chapter 18-4.

(i) Development of regional impact. Any application for a rezoning or special use and development approval that meets or exceeds the thresholds established by the state Department of Community Affairs shall be

considered a development of regional impact (DRI), and as such, shall comply with the procedures set forth in Chapter 18-5.

(j) The Director may request information in addition to that specified in this section when considered necessary for review of the application by the Governing Body or Planning and Appeals Board.

(k) Anyone filing an application may be exempt from the above submittal requirements of this section, provided the application is for rezoning to R-I-A, R-I, or N-C zoning district, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative of this Section 18-2-3.

Section 18-2-4. Concept Plan Requirements

Applications for a rezoning or special use shall include a concept plan submitted in electronic format and drawn to scale on a boundary survey of the tract by a state-licensed architect, engineer, landscape architect, or land surveyor. The concept plan shall at minimum include the information specified in this section.

(a) Name, address, and telephone number of the property owner.

(b) Name, address, and telephone number of the applicant.

(c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(d) Proposed use of the property.

(e) Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre).

(f) Location map of the property in relation to the surrounding area with regard to well- known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide.

(g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries.

(h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, utilities, existing buildings to remain, cultural and historic features, and other features as appropriate to the nature of the request.

(j) The proposed project layout including:

(1) For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot.

(2) For multi-family and nonresidential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas and driveways.

(k) The proposed phasing of the development if it is proposed to be built in sections.

(l) A statement as to the source of domestic water supply.

(m) A statement as to the provision for sanitary sewage disposal.

(n) A statement as to the provision for solid waste disposal.

(o) A statement as to the practicability of runoff reduction and feasibility of site and size of aboveground and/or belowground stormwater BMPs with respect to desired zoning density.

(p) The approximate location and surface area of proposed stormwater facilities.

(q) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Section 18-2-5. Special Application Requirements for Planned Unit Developments

Applications for rezoning to the PUD, planned unit development district, or applications for a zoning amendment of an existing PUD shall, in addition to the other requirements specified in this chapter, include the following:

(a) Binding concept plan. Unless specifically approved otherwise, the concept plan shall become a condition of zoning approval and must be followed. Minor modifications to the concept plan may be allowed by the Director upon determination that the modifications are limited to dimensional design features of the plan and do not include any changes to allowable uses, maximum density, an increase in the square footage of any nonresidential structures, of the addition of any building or structures, driveways, roads, or parking lots into any open space, yard, of buffer.

(b) Architectural elevations. Applications shall include perspective front, side, and rear elevation drawings of representative building types. These drawings shall indicate general architectural characteristics. If the PUD is approved, architectural elevations submitted as part of the application shall be considered binding unless specifically noted otherwise in the approval.

(c) Land uses and development summary. The application shall include:

(1) A list of all land uses proposed to be included in the PUD;

(2) The total land area devoted to each of the land uses proposed;

(3) The percentage of the total land area within the PUD devoted to each proposed land use;

(4) The number of residential units by type, including the typical floor area for each type of dwelling unit, site density; and

(5) The total square footage of buildings devoted to non-residential uses.

In addition, the application shall contain a development schedule indicating the approximate dates for beginning and completing the project, or each phase if the development is to be phased, and the extent of development and types of land uses in each phase.

(d) Dimensional requirements. The application shall contain all dimensional requirements that are proposed to apply within the PUD, including minimum lot sizes, minimum lot widths, maximum building coverage, stormwater structural best management practices coverage, maximum impervious area, front, side and rear building setbacks, and maximum heights. Such proposed dimensional requirements shall be presented in a table on the development plan. The application should indicate dimensional provisions for those items specified in Section 4-6-1 and Section 5-8-1, to the extent they apply to the uses proposed.

(e) Improvement requirements comparison. The application shall contain descriptions of improvements to be constructed within the PUD, such as but not limited to street types, right-of-way widths, pavement widths, pavement materials, sidewalk locations and dimensions, and other improvements. Such proposed improvements shall be presented in a table on the development plan that shows the proposed improvements in comparison with improvements that would be required otherwise without approval of a PUD. To the extent they can be shown at the time of development plan approval, environmental quality

standards should be incorporated in the development application, particularly as they relate to storm water runoff, stream protection, and tree protection.

(f) Private restrictions. PUDs that have commonly owned facilities and space shall have private restrictions and covenants established which shall be subject to the approval of the city attorney and the Director. The developer of a PUD involving commonly owned facilities and space shall submit, along with the development plan application, a declaration of covenants, conditions, and restrictions and articles of incorporation and by-laws for the property owners or homeowners association. The declaration shall confer membership to the owner of property subject to assessment by the association, provide for voting rights in the association with suggestions for the division of power between the developer and the property owners, and provide for maintenance assessments, among other things. The Director may waive the requirements of this paragraph when, in his or her opinion, an applicant submits a letter that demonstrates his or her intent to comply with these requirements and addresses any particular issues associated with maintenance of common grounds.

(g) Community benefit statement. The applicant shall submit a written statement identifying the relative benefits that will accrue to the community as a result of the property being developed under PUD provisions. Benefits to the community include mixed land uses that reduce vehicle trips, open spaces provided and linked to larger open space networks, natural features retained, and quality architectural designs provided. This statement is a developer's opportunity to define why the PUD proposal merits approval and how it will serve the community better than a conventional development.

Section 18-2-6. Notice of Public Hearing in Newspaper

Before the Governing Body may take final action on a proposed rezoning or special use application, the Planning and Appeals Board shall hold a public hearing on the proposal. At least 15 days but not more than 45 days prior to the public hearing before the Planning and Appeals Board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Community and Economic Development Department and shall include the location of the property, the present zoning classification of the property, the proposed rezoning or special use requested, and the date, time, and place of the public hearing before the Planning and Appeals Board. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 18-2-7. Notice of Public Hearing by Sign on Property

At least 15 days but not more than 45 days prior to the public hearing, the city shall post a sign or signs stating the date, time and place of the public hearing before the Planning and Appeals Board, the present zoning classification and the proposed zoning change or the proposed special use. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the rezoning or special use has been requested. For properties with street frontage greater than 600 feet in length, one such sign shall be placed for each 600 feet of street frontage or portion thereof. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 18-2-8. Notice to Adjacent Property Owners

At least 10 days prior to the Planning and Appeals Board public hearing, the applicant shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the rezoning or special use application. The written notice shall be mailed to the property owners as such names and addresses appear on the county's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the Planning and Appeals Board. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 18-2-9. Special Notice Requirements

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. 36-66-6), when a proposed rezoning or special use application 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 Director shall ensure that the additional public notice requirements of O.C.G.A. 36-66-6 are met.

Section 18-2-10. Investigations and Staff Recommendation

(a) Within a reasonable period of time after acceptance of a complete application, the Director may, but shall not be required, to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Planning and Appeals Board and Governing Body or summarized in a memorandum. Any such comments shall become public records.

(b) The Director may, but shall not be required to, investigate and make a recommendation regarding a rezoning or special use application based on the criteria in Section 18-2-12, Section 18-2-13, and Section 18-2-14, as applicable. Any such investigation and recommendation shall if in writing be made available to the applicant and Planning and Appeals Board prior to its public hearing and shall become public records. Copies of the Director's findings and recommendations, if provided, shall be available no later than the time of the Planning and Appeals Board 's public hearing on the matter.

Section 18-2-11. Planning and Appeals Board Hearing and Recommendation

The Planning and Appeals Board shall convene a public hearing on the rezoning or special use application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Section 18-2-9. The Planning and Appeals Board shall have 65 calendar days from the date of its public hearing within which to submit its recommendation on the rezoning or special use application. The Planning and Appeals Board may submit any additional report it deems appropriate. The recommendations of the Planning and Appeals Board shall have an advisory effect only and shall not be binding on the Governing Body.

Section 18-2-12. Criteria to Consider for All Applications

The Planning and Appeals Board and the Governing Body shall consider the following standards in considering any rezoning, zoning amendment, or special Use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

(b) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?

(c) Is the proposed use compatible with the purpose and intent of the comprehensive plan?

(d) Are their substantial reasons why the property cannot or should not be used as currently zoned?

(e) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sanitary sewer utilities, drainage or stormwater management, and police or fire protection?

(f) Is the proposed use supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties?

(g) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Section 18-2-13. Additional Procedures and Criteria for Planned Unit Developments

In addition to the requirements for a rezoning or special use specified in Section 18-2-3, approval proceedings for PUD rezoning/zoning amendment and development approval shall include the following:

(a) Preapplication conference. At least 15 calendar days prior to filing a formal application for a PUD, the applicant is required to confer with the Community and Economic Development Department to review the general character of the plan and to obtain information on the nature and extent of the proposed development.

(b) Criteria for approval. In considering and acting upon applications for PUDs, the Planning and Appeals Board and the Governing Body shall consider and base their recommendation and decision, respectively, on the following criteria (not all inclusive), and any other factors it may consider appropriate in reaching such a decision:

(1) The extent to which the proposed mix of land uses is appropriate in terms of location and character.

(2) The extent to which the development is compatible with surrounding properties as it relates to the overall scale and design of development.

(3) The extent to which the proposed architectural features of buildings within the development are harmonious.

(4) The adequacy of open spaces, play areas and recreation facilities that are provided for the needs of the development occupants.

(c) Revisions. Amendments to approved PUD rezoning and development applications, including those approved prior to the adoption of this chapter, shall be permitted but governed by this chapter.

(d) Permits and certificates. No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, for any PUD that has not been approved in accordance with the provisions of this chapter. The Director shall authorize the issuance of building permits for buildings and structures in the area covered by the approved development if they are in conformity with the approved development, after improvements are installed in accordance with applicable improvement requirements, and if found to be in conformance with all other applicable regulations. The Director shall authorize the issuance of a certificate of occupancy for any completed building, structure, or use located in the area covered by the PUD approval if it conforms to the requirements of the approved development and all other applicable regulations. After full build out of a PUD, the use of land and construction, modification, or alteration of any buildings, structures, or uses shall continue to be regulated by the approved development plan.

Section 18-2-14. Additional Criteria to Consider for Special Use Applications

The Planning and Appeals Board and the Governing Body shall consider the following standards in considering any special use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) The type of street providing access to the subject property is adequate to serve the proposed special use.

(b) Access into and out of the property adequately provides for traffic and pedestrian safety, the anticipated volume of traffic flow, and access by emergency vehicles.

(c) Refuse, service, parking and loading areas on the property are located and screened to protect other properties in the area from such adverse effects as noise, light, glare or odor.

(d) The hours and manner of operation of the special use have no adverse effects on other properties in the area.

(e) The height, size and location of the buildings or other structures proposed on the property are compatible with the height, size or location of buildings or other structures on neighboring properties.

Section 18-2-15. Withdrawal and Waiting Period for Reapplication

(a) A rezoning or special use application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Planning and Appeals Board is closed.

(b) If the applicant withdraws the application prior to the publication of notice for public hearing before the Planning and Appeals Board, the application shall be withdrawn administratively by the Director without restriction on the refiling of a proposed zoning change or special use on the property in the future.

(c) If the applicant withdraws the application after notice has been published or is irretrievably set for publication, but the application has not been heard by the Planning and Appeals Board, the application shall be withdrawn administratively by the Director and an application for rezoning or special use on the property may not be resubmitted for 6 months from the date of withdrawal.

(d) If the request for withdrawal is made at the Planning and Appeals Board public hearing on the case, the request may be approved by a majority vote of the board, but an application for a rezoning or special use on the property may not be resubmitted for 6 months from the date of withdrawal.

(e) If the request for withdrawal is made by the applicant following the Planning and Appeals Board hearing, the application shall remain on the Governing Body public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the Governing Body.

(f) If denied, a rezoning or special use request affecting the same property shall not be reconsidered for a period of 6 months from the date of denial.

Section 18-2-16. Notice of Public Hearing by the Governing Body

(a) The Governing Body shall hold a public hearing on the rezoning or special use application. If the Planning and Appeals Board makes a recommendation on the rezoning or special use application at the date of its public hearing or within a time frame sufficient for the public hearing by the Governing Body to be held as scheduled, the Governing Body shall proceed with the advertised public hearing.

(b) If the Planning and Appeals Board does not make a recommendation on the rezoning or special use application before the scheduled and advertised public hearing to be held by the Governing Body, the Director shall schedule a new date for the public hearing by the Governing Body and will provide notice of said rescheduled public hearing at least 15 days but not more than 45 days prior to the public hearing. Said notice shall be accomplished by notice in a newspaper of general circulation in the city, posting of a sign on the property, and notice to adjacent property owners just the same as required by this chapter for the initial application.

Section 18-2-17. Revision of Concept Plan

A concept plan that is part of a rezoning or special use application may be revised and resubmitted by the applicant during the process, but in no event shall a revised concept plan resubmitted by an applicant be accepted or considered less than 10 calendar days prior to the public hearing by the Governing Body. At its discretion, the Governing Body may refer an application involving a concept plan revised after consideration by the Planning and Appeals Board back to the Board for additional study and recommendation.

Section 18-2-18. Action by Governing Body

(a) No action shall be taken on a Rezoning or Special Use application by the Governing Body until it has received a recommendation by the Planning and Appeals Board, or upon the expiration of the 65 day

review period of the Planning and Appeals Board. In rendering a decision on a Rezoning or Special Use application, the Governing Body shall consider all information supplied by the applicant, the Director, and the Planning and Appeals Board, any information presented at the public hearing of the Planning and Appeals Board, and information gained at its own public hearing.

(b) After conducting a public hearing, in taking action on an application, the Governing Body may:

(1) Approve the application as submitted by ordinance.

(2) Approve the application with conditions.

(3) Deny the proposal.

(4) Table the proposal for consideration at a future meeting.

(5) Refer the application back to the Planning and Appeals Board for further consideration, with notice of public hearings before the Planning and Appeals Board and Governing Body, the same as required for the initial application.

(6) Refer the application back to the Planning and Appeals Board for further consideration, without the requirement to hold a public hearing and provide notice thereof.

Section 18-2-19. Insufficient Basis for Denial

Applications for a rezoning and special use shall not be required to demonstrate compliance with all applicable regulations of this Code for land development permits or building permits. The Planning and Appeals Board shall not base its recommendation to deny a rezoning or special use application, and the Governing Body shall not base its denial of a rezoning or special use application, on the failure of a rezoning or special use application to demonstrate compliance with land development permitting requirements including but not limited to tree protection, stormwater management, and flood plain regulations.

Section 18-2-20. Decisions Involving Constitutional Challenges

(a) In ruling on any rezoning in which the applicant has brought a constitutional challenge to the existing zoning classification, the Governing Body shall pay particular attention to the following criteria which have been applied by state courts in zoning matters:

(1) Existing uses and zoning of the subject and nearby property;

(2) The extent to which property values are diminished by the particular zoning restrictions;

(3) The extent to which the destruction of property values, if any, promotes the healthy, safety, morals or general welfare of the public;

(4) The relative gain to the public, as compared to the hardship, if any, imposed upon the individual property owner;

(5) The suitability of subject property for zoned purposes;

(6) The length of time the property, if vacant, has been vacant as zoned considered in the context of land development in the areas and the vicinity of the property.

(b) The existing zoning classification shall be considered presumptively valid and it shall be the responsibility of the applicant to present evidence that rebuts this presumption. If the Governing Body determines, from the evidence presented, that the existing zoning classification is unduly burdensome to the applicant and is not offset by the considerations of the public's health, safety, morals and general welfare, and considerations of the integrity of this Code and of the official zoning map, the Governing Body may impose upon said property any appropriate zoning classification, including conditions, which might be consistent with these considerations and the criteria described in this chapter.

Section 18-2-21. Fast Track Process

(a) The Governing Body may, in its judgment in cases involving redevelopment or extraordinary economic development, pass a motion in a regular meeting, which provides for an expediting of the procedures for rezoning applications and special uses established in this chapter, including the following:

(1) One public hearing may be held for a combination of any of the following zoning actions: to rezone a property to another zoning district; rezoning of property to be annexed into the City; or a permit relating to special use of property.

(2) Application requirements specified in this chapter may be waived, in order to expedite the review and public hearing process.

(b) Such a fast track process, if exercised, shall not be inconsistent with the Zoning Procedures Act, O.C.G.A. § 36-66. seq. In opting to use this fast track approval process, the Governing Body may instruct the Director to notify the public and seek input on the matter by other means.

Section 18-2-22. Incorporation Clause

This chapter is intended to comply with the provisions of the Georgia Zoning Procedures Law, O.C.G.A. § 36-66 et seq., which Act is incorporated by reference in its entirety into this Code. Where any provision of this chapter is in conflict with any provision of the law, the law shall control. Or where this chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the law, such provision of the law, so as to meet the mandate of the law, shall be fully complied with, except that where an application to annex property into the city is initiated by the Governing Body, only those notice requirements and public hearing procedures set forth in O.C.G.A. § 36-66-4(d) shall be required for zoning of property to be annexed into the city, notwithstanding any other procedures or requirements set forth in this Code.

CHAPTER 18-3 ANNEXATIONS

Section 18-3-1. Generally

An area proposed for annexation into the city be subject to the same procedures, standards, and requirements for any rezoning or special use as contained in Chapter 18-2, except as specifically modified by this chapter.

Section 18-3-2. Initiation

(a) An application for annexation for any property or properties contiguous to the city may be initiated by the Governing Body, owner of the property, or some other person given authorization by property owner to file said application. Unless initiated by the Governing Body, all such applications shall be initiated by the owner of a majority interest in the property affected.

(b) Any applicant wishing to apply for annexation must schedule an appointment with the Community and Economic Development Department to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

(c) Any applicant wishing to file an application for a planned unit development zoning district must schedule a conference with the community and economic development department staff at least 15 days prior to filing an application and shall submit the additional application materials required for a PUD district as outlined in Chapter 18-2 for a zoning change application.

Section 18-3-3. Withdrawal and Waiting Period for Reapplication

Any applicant wishing to withdraw a proposed annexation request shall comply with the withdrawal procedures as outlined in Chapter 18-2 for rezoning applications and special use with the exception that there shall be no waiting period for reapplication upon withdrawal or denial of an annexation request.

Section 18-3-4. Requirements for Submittal

In addition to those requirements for submittal in Section 18-2-3, all applications for annexation shall include the following:

(a) U.S. Department of Justice data. Data as required on a form that is part of the application form provided by the Community and Economic Development Department.

(b) Letter of cost estimate. A letter of cost estimate must be obtained from the city department of water resources if an applicant wishes to have the city share in the cost of sanitary sewer line extension.

(c) The Director may request information in addition to that specified in this section when considered necessary for review of the application by the Governing Body.

(d) Anyone filing an application may be exempt from the above submittal requirements of this section, provided the application is for annexation with a zoning classification of R-I-A or R-I, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative as described in Section 18-2-3.

Section 18-3-5. Concept Plan Requirements

The concept plan shall be submitted meeting the requirements of Section 18-2-4, as appropriate to the annexation requested.

Section 18-3-6. Special Application Requirements for Planned Unit Developments

Applications for annexation with a zoning classification of PUD shall include those additional application materials required for a PUD district as outlined in Chapter 18-2.

Section 18-3-7. Process for Annexation

In addition to the process and procedures for a rezoning or special use request as outlined in Chapter 18-2, there are additional steps to be taken when processing applications for annexation.

(a) Upon or following the date of notice to the county of the proposed annexation as required under O.C.G.A. 36-36-6, the Governing Body shall initiate the zoning of the property to be annexed or consider an application for a zoning submitted by or on behalf of the owner of such property under the provisions of this chapter.

(b) The Governing Body shall conduct their public hearings on the zoning concurrent to the annexation of the land into the city. Notice of such hearing shall be provided under the provisions of Chapter 18-2 for a rezoning or special use.

(c) If the annexation request is denied, any action by the Governing Body on the zoning shall be null and void.

(d) Furthermore, there are mandatory reports required that must be submitted to local, state and federal agencies. Such reports and documents shall be prepared by and submitted by the Community and Economic Development Department on behalf of the applicant.

Section 18-3-8. Criteria to Consider for Annexation

The Governing Body shall consider the standards of Section 18-2-12 in considering any annexation proposal, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal.

Section 18-3-9. Additional Procedures and Criteria for Planned Unit Developments

In addition to the requirements for annexation applications specified in this chapter, approval proceedings for annexation with PUD zoning shall comply with the additional procedures and criteria for PUD zoning as outlined in Chapter 18-2 for a zoning change.

Section 18-3-10. Effective Date

The zoning of property hereafter annexed shall become effective on the day the zoning is approved by the Governing Body, on the date that the annexation becomes effective, or where a county has interposed an objection pursuant to O.C.G.A. 36-36-11, the date provided for in paragraph (8), subsection (b) of O.C.G.A. Section 36-36-11, whichever is later.

Section 18-3-11. Issuance of Permits

No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the effective date of the annexation approval.

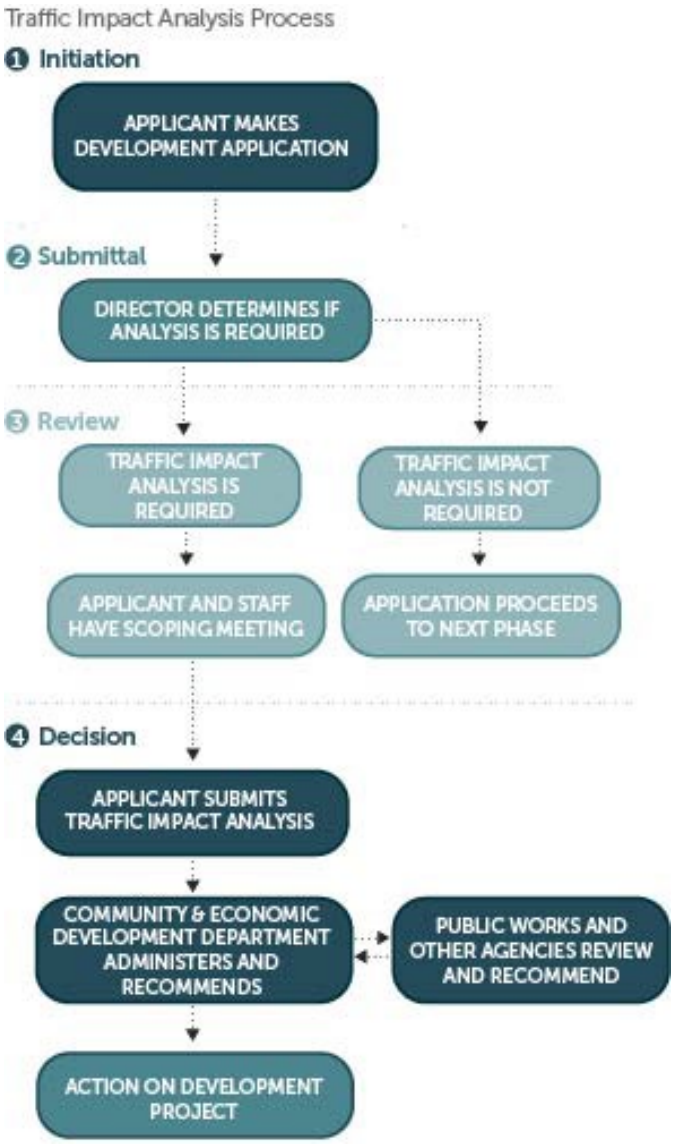
Section 18-3-12. Existing Nonconforming Use

Any use existing at the time of annexation approval on property annexed by the city which does not comply with the use provisions of the city's zoning district assigned to said annexed property shall be considered a nonconforming use which shall be governed by Chapter 10-3.

Section 18-3-13. Conformity with this Code

Lands hereafter annexed into the city limits shall, upon the effective date of such annexation, be subject to all applicable procedural and substantive requirements of this Code as now or hereafter amended. Any new use of an annexed property after zoning approval shall only be permitted if it conforms to all applicable provisions of this Code.

CHAPTER 18-4 TRAFFIC IMPACT ANALYSIS



Section 18-4-1. Purpose and Intent

Understanding the demands placed on the community's transportation network by development is an important dimension of assessing the overall impacts of development proposals. All development generates traffic, and it may generate enough traffic to create congestion and thus require the community to invest more capital funds into the transportation network in the form of new roads, traffic signals, and intersection improvements. Traffic congestion results in a number of problems, including economic costs due to delayed travel times, air pollution and accidents. A traffic impact analysis is a mechanism for the city to foresee the demands a development proposal will place on the transportation network.

Section 18-4-2. Objectives

The city finds that requiring a traffic impact analysis for proposed developments that meet certain thresholds will help to achieve the following objectives:

(a) Forecast additional traffic associated with new development, based on accepted practices.

(b) Determine the improvements that are necessary to accommodate the new development.

(c) Allow the city to assess the impacts that a proposed development may have and assist the city in making decisions regarding development proposals.

(d) Help to ensure safe and reasonable traffic conditions on streets after the development is complete.

(e) Reduce the negative impacts created by developments by helping to ensure that the transportation network can accommodate the development.

(f) Protect the substantial public investment in the street system.

(g) Provide information relevant to citywide comprehensive planning, transportation planning, transit planning, and the provision of programs and facilities for traffic safety, road improvements, transportation demand management, pedestrian access, and other transportation system considerations.

Section 18-4-3. Definitions

(a) **Director of Public Works**: The Director of the Public Works Department of the city, or their designee.

(b) **Discretionary development proposal**: Any application for a rezoning, preliminary plat, special use permit, final design plan approval, or certificate of appropriateness. For purposes of this chapter, a determination of applicability shall be made at the first discretionary development proposal encountered.

(c) **Horizon year**: Unless otherwise specified or approved by the Director of Public Works, the horizon year shall be 20 years into the future from the year during which a traffic impact study is being prepared.

(d) **Internal trips**: Trips that are made within a multi-use or mixed-use development, by vehicle or by an alternate mode such as walking.

(e) **Level of service (LOS)**: A quantitative and qualitative measure of how well traffic flows on a given street or highway. Level of service relates to such factors as highway width, number of lanes, percentage of trucks, total traffic volume, turning movements, lateral clearances, grades, sight distance, capacity in relation to volume, travel speed, and other factors which affect the quality of flow. Level of service is typically summarized by letter grades described as follows:

(1) Level "A" is a condition with low traffic volumes, high speeds, and free-flow conditions.

(2) Level "B" is a condition with light traffic volumes, minor speed restrictions, and stable flow.

(3) Level "C" is a condition with moderate traffic volumes, where speed and maneuvering are restricted to a limited degree by the amount of traffic.

(4) Level "D" is a condition with heavy traffic operating at tolerable speeds, although temporary slowdowns in flow may occur.

(5) Level "E" is a condition of very heavy flow and relatively low speeds. Under Level "E" the traffic is unstable and short stoppage may occur.

(6) Level "F" is a condition of extremely heavy flow, with frequent stoppage and very slow speeds. It is an unstable traffic condition under which traffic often comes to a complete halt.

(f) **New trips**: Total vehicle trips, minus pass-by trips, minus internal trips if applicable.

(g) **Pass-by trips**: Vehicle trips which are made by traffic already using the adjacent roadway and entering the site as an intermediate stop on the way to another destination.

(h) **Peak hour**: 7:00 a.m. to 8:00 a.m., or 8:00 a.m. to 9:00 a.m., or the highest four 15- minute increments within such time period for the a.m. peak hour; 4:00 p.m. to 5:00 p.m., 5:00 p.m. to 6:00 p.m., or the highest four 15-minute increments within such a time period for the p.m. peak hour.

(i) **Peak-hour trip generation study**: A study by a qualified professional of one or more actual developments of similar land use and development characteristics which provides empirical data on the actual number of trips entering and exiting said development(s) during the a.m. and p.m. peak hour. A peak-hour trip generation study shall consist of a.m. and p.m. peak hour traffic counts by direction (entering and exiting) on at least three separate weekdays if the study is based on only one similar development, or at least one a.m. and p.m. traffic count for three different actual developments. The results of actual traffic counts from peak-hour trip generation studies may be adjusted to discount pass-by trips as provided in this chapter.

(j) **Professionally accepted**: Published by the Institute of Transportation Engineers; or prepared by a qualified professional under work supervised by the city or Hall County, or prepared by a qualified professional and accepted by the Director of Public Works.

(k) **Qualified professional**: For purposes of conducting traffic impact analyses as may be required by this chapter, a qualified professional shall mean a state licensed engineer with experience in traffic engineering. For purposes of conducting peak hour trip generation studies, a qualified professional shall mean a registered professional engineer with experience in traffic engineering, or another professional approved by the Director of Public Works based on education and experience to conduct such trip generation studies.

(l) **Traffic impact analysis**: A study, conducted by a qualified professional, which assesses the effects that a discretionary development proposal's traffic will have on the transportation network in a community or portion thereof. Traffic impact studies vary in their range of detail and complexity depending on the type, size, and location of the proposed development.

(m) **Trip**: A single or one-directional travel movement with either the origin or destination of the trip inside the study site.

(n) **Trip generation**: An estimate of the number of vehicle trips that will be generated due to the new development, which is calculated based on the type and amount of land uses in the proposed development and professionally accepted trip generation rates for each such land use. Trip generation may be expressed on an average daily basis or average peak hour (a.m., p.m.), or both.

Section 18-4-4. Thresholds of Applicability

A traffic impact study shall be required for any discretionary development proposal which can be reasonably expected to generate 1,000 vehicle trips during a single day and/or more than 100 vehicle trips during the morning or afternoon peak hours, as determined by professionally acceptable information as provided in this chapter.

Section 18-4-5. Exemptions

(a) A traffic impact analysis is not required if a discretionary development proposal is initiated by the Governing Body.

(b) A discretionary development proposal may be exempted from the traffic impact study requirement by the Director of Public Works if a prior traffic impact study for the subject property has been submitted to the city or is available from Hall County and the proposed development is substantially similar to that for which the prior traffic impact study was conducted.

Section 18-4-6. Trip Generation Data

The source for trip generation rates for the purposes of this Code shall be "*Trip Generation*" published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the Director of Public Works. Final determinations of whether this chapter applies shall be made based on application of data from ITE *Trip Generation*, which may change from time to time, or as otherwise approved by the Director of Public Works.

Section 18-4-7. Determination of Applicability

(a) At the time a discretionary development proposal is filed, or during any pre-application meeting if possible, the Director of Community and Economic Development shall determine whether a traffic impact analysis shall be required according to this chapter. The Director of Community and Economic Development shall calculate the expected trip generation of the proposed development using professionally accepted trip generation rates or other data and compare it to the thresholds specified in this chapter to determine whether a traffic impact analysis is required. The Director of Public Works shall assist in this effort by providing the Director of Community and Economic Development with any updated information available on trip generation rates.

(b) Applicants for discretionary development proposals shall provide sufficient information about the development proposal (e.g., number of dwelling units, square footage of buildings, number of employees, land area of the development, etc.) for the Director of Community and Economic Development to apply professionally accepted trip generation rates to the proposed development. The Director of Community and Economic Development shall not accept a discretionary development proposal for processing unless it contains the data on the proposed development necessary to apply available trip generation rates. Further, no application for a discretionary development proposal shall be accepted nor advertised for a public hearing until such time as the transportation impact study, if required, has been completed and submitted in accordance with this chapter.

Section 18-4-8. Cases Where Data Are Not Available

In the event that information submitted by the applicant of the discretionary development proposal is sufficient to calculate the trip generation that would be expected to result from the proposed development, but trip generation rates or other data are not available or in sufficient quantity of studies to make a determination of applicability under the terms of this chapter, this section shall apply.

(a) The Director of Community and Economic Development shall first consult with the Director of Public Works to determine if:

(1) Professionally acceptable trip generation rates applicable to the subject development exist from other reputable sources, such as the Journal of the Institute of Transportation Engineers;

(2) Other trip generation studies of similar developments are available; or

(3) Professionally acceptable trip generation rates for one or more similar land uses can be used in making the determination of applicability.

(4) If the Director of Public Works is able to provide such information and determines it is professionally reputable, then the Director of Community and Economic Development shall use said data as may be interpreted by the Director of Public Works to make the determination of applicability. The Director of Community and Economic Development and Director of Public Works shall have no more than 10 working days to comply with the provisions of this section, when it applies.

(b) In the event the Director of Community and Economic Development is unable to make a determination of applicability after consulting with the Director of Public Works pursuant to section, the director shall notify the proposed applicant in writing that professionally accepted trip generation rates are not available for purposes of making a determination of applicability.

(c) Upon receipt of notice described in this section, the applicant for a discretionary development proposal shall have 30 days to have a qualified professional prepare and submit a peak-hour trip generation study as defined by this chapter.

Section 18-4-9. Specifications for Peak-Hour Trip Generation Studies

(a) Discounting of pass-by trips. The peak-hour trip generation study may subtract from the empirical data on actual vehicle trips those trips that are reasonably considered to be "pass-by" trips as defined by this chapter, using professionally accepted assumptions about the percent of pass-by trips approved by the Director of Public Works.

(b) Reduction for internal trips in multi-use or mixed use developments. In calculating the new trips generated from a proposed development containing multiple uses or mixed uses, a qualified professional with the approval of the Director of Public Works may apply a percentage reduction to the total vehicle trips shown in any peak hour trip generation study to account for internal trips, as defined in this chapter, so as to account for (discount) the number of internal trips reasonably expected to occur in such multi-use or mixed use development. Said reduction shall not exceed 24% of total trips generated.

Section 18-4-10. Scoping Meeting

Once it is determined that a traffic impact analysis is required, a scoping meeting may be held with the developer or his or her consultant and the appropriate representatives of the city Public Works Department and, if appropriate, the Community and Economic Development Department. It will be the responsibility of the developer or his or her consultant to initiate this meeting. The purpose of this meeting is to discuss the availability of site-specific information concerning the development, available forecasts of traffic volumes, and to ensure the applicant understands the content requirements for traffic impact analysis.

Section 18-4-11. Required Contents of a Traffic Impact Study

(a) A traffic impact analysis must evaluate the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact study must provide adequate information for city staff to evaluate the development proposal and, when appropriate, recommend conditions of approval.

(b) The qualified professional preparing the traffic impact study is encouraged to coordinate preparation with city staff and staff from other jurisdictions, as appropriate, to ensure that all necessary components are included in the traffic impact study and to reduce revision and review time.

(c) In order to be reviewed, the traffic impact study shall include at least the following minimum components:

(1) Title page. A title page listing the name of the proposed development and its location.

(2) Table of contents. A table of contents outlining the study shall be provided.

(3) Certification. The study shall be signed and stamped by a qualified professional.

(4) Executive summary. An executive summary, discussing the development, the major findings of the analysis, and any recommendations made by the qualified professional.

(5) Vicinity map. A vicinity map showing the location of the proposed project in relation to the transportation system of the area.

(6) Study area map. A map of the traffic impact study area. For purposes of this chapter, the traffic impact analysis area shall be determined according to trip generation rates as follows. In the event there is a difference as a result of applying peak and total trips, the more restrictive requirement (larger study area) shall apply.

Table 18-1: Study Area Size Requirements

Peak Hour Trips Generated	Daily Trips Generated	Distance from Perimeter of Proposed Development Along Roads
100 - 150	1,000 – 1,500	½ mile
151 - 500	1,501 – 5,000	1 mile
501 – 1,000	5,001 – 10,000	2 miles
1001 or more	10,001 or more	3 miles

(7) Inventory of transportation facilities in the study area. A description of transportation facilities in the study area, including roadway names, locations and functional classifications, intersection lane configurations and traffic control (including signal timing), existing rights-of-ways, transit routes and stops (if any), pedestrian and bicycle facilities, and planned transportation system improvements. An existing lane configuration sketch shall be submitted for all roadways and intersections within the study area.

(8) Concept plan and development data. A complete description of the proposed development, including a concept plan, with the best available information as to the nature and size of each proposed use, and the proposed location and traffic control of all proposed access points, including the distance from all proposed access points to adjacent accesses and/or streets, including those across a street right-of-way from the subject development.

(9) Existing traffic volumes. Peak and total daily traffic volumes on all arterial, collector, and local streets within the study area. Traffic counts should, as a rule, not be more than one year old when the report is prepared. Traffic counts between one and three years old may be used if factored to the current year. Traffic counts older than three years will not be accepted.

(10) Facility performance. Existing performance of the transportation system, including levels of service (LOS) and volume/capacity ratios (V/C) for all intersections and road segments as appropriate within the study area.

(11) Trip generation. Complete trip generation figures for all aspects of the proposed development. The source for trip generation rates shall be " Trip Generation " published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the director of transportation. For developments expected to generate more than 30 trucks per day, the trip generation data shall include separate figures for trucks. If phased development is proposed, the study shall include projections for the year that each phase of the development is planned to be complete. The traffic impact analysis shall also include trip generation data for any pending and approved developments that would affect the study area. The city shall facilitate the review of applicable files by a qualified professional to determine the names and development characteristics of pending and approved developments in the study area.

(12) Trip distribution and assignment. Trip distribution for the proposed development. For developments expected to generate more than 30 truck trips per day, the study shall include separate trip distribution figures for trucks.

(13) Forecast traffic volumes without the development. Forecast traffic volumes without the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year. Qualified professionals should consult city Public Works Department staff for information to determine the most

appropriate sources or methods of determining future traffic volumes. If phased development is proposed, the traffic impact study shall include projections for the year that each phase of the development is planned to be complete.

(14) Forecast performance without the development. Forecast performance, including levels of service (LOS) and volume/capacity ratios (V/C) of the transportation system without the development in the year that each phase is planned to be complete and in the horizon year.

(15) Forecast traffic volumes with the development. Forecast traffic volumes with the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year.

(16) Forecast performance with the development. Forecast performance, including levels of service (LOS) and volume/capacity ratios (V/C) of the transportation system with the development in the year that each phase is planned to be complete and in the horizon year.

(17) Sight distance. A safety analysis of the site accesses, and an assessment whether adequate sight distances are provided at driveways and streets abutting the development.

(18) Operational characteristics. Analysis of prevailing operating speeds, if significantly different than speed limits, right and left turn lane warrants, queue lengths, acceleration and deceleration lanes including lengths and tapers, throat lengths, channelization, and other characteristics of the site accesses, which exist and may be needed, as appropriate. The traffic impact analysis shall address whether driveways and intersections are located and spaced safely and designed to accommodate expected traffic volumes and maneuvers. The operational characteristics analysis shall also evaluate the turning and traveling characteristics of the vehicles that will be using the proposed development and the adequacy of the geometrics of the existing and proposed roadway (public and/or private) configurations to accommodate these characteristics.

(19) On-site circulation. The traffic impact analysis shall address whether on-site vehicular and pedestrian circulation and parking layouts are safe and efficient.

(20) Significant impacts. Analysis as appropriate of any potential adverse or controversial effects of the proposed development on the transportation system in the area. Examples of possible effects include, but are not limited to, infiltration of non- residential traffic into residential neighborhoods, traffic noise, creation of potential for traffic violations, conflicting turning movements with other driveways, any new pedestrian or bicycle transportation needs arising from the development, etc.

(21) Mitigation measures. Listing of all intersections and road segments that are forecasted to be level of service "E" and "F" in the horizon year, or if phased, in the years that each phase is planned to be complete, and an identification and description of specific mitigation measures including signal, turn lane, or other warrant analyses as appropriate and necessary to bring these intersections and road segments into compliance with a level of service "D" or other city-adopted level of service for said road segment or intersection.

(22) Drawing of improvements. If roadway improvements are needed, the study shall show a drawing at an engineering scale of one inch equals 20 feet for all recommended lane configurations.

(23) Signalization. If signalization is warranted by the traffic signal warrants outlined in the Manual on Uniform Traffic Control Devices (MUTCD), a warrant analysis shall also be conducted as a part of the traffic impact analysis. If a traffic signal is warranted, the warrant package in the study shall show a drawing at an engineering scale of one inch equals 20 feet detailing the signal design and phasing plans.

(24) Costs. The estimated costs associated with implementing all such mitigation measures shall be provided in the traffic impact analysis. The traffic impact analysis may take into account any city/county/state approved roadway, traffic signalization, and other improvements in determining mitigation measures and providing recommendations.

(25) References. A listing of all technical documents and resources cited or consulted in preparing the traffic impact analysis.

(26) Technical appendix. Relevant technical information, including but not limited to: copies of raw traffic count data used in the analysis, calculation sheets and/or computer software output for all LOS and V/C calculations in the analysis, and warrant worksheets for signals, turn lanes, signal phasing, etc. used in the analysis.

Section 18-4-12. Additional Technical Specifications

The Director of Public Works is further authorized to promulgate and require the use of additional technical specifications for conducting traffic impact analysis, which shall be consistent with analysis methods included in the most recent *Highway Capacity Manual, Manual on Uniform Traffic Control Devices, and/or Traffic Access and Impact Studies for Site Development: A Recommended Practice* (Washington, DC: Institute of Transportation Engineers, 1991), as may be amended or republished from time to time.

Section 18-4-13. Costs and Fees

The city assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of traffic impact analyses. There shall be no application review fee for a traffic impact study.

Section 18-4-14. Submittal and Review of Study

The applicant for the proposed development or the qualified professional shall submit one electronic copy of the traffic impact study and technical appendix, five paper copies of the traffic impact analysis, and one paper copy of the technical appendix to the Director of Community and Economic Development. The Director shall transmit the electronic copy, four paper copies of the traffic impact study and the paper copy of the technical appendix to the Director of Public Works, who may at their discretion submit copies of the report to applicable review agencies such as the State Department of Transportation, the regional planning organization, or an adjacent local jurisdiction. Within 10 working days of receipt of a traffic impact analysis, the Director of Public Works shall review all calculations and analyses and determine if they are complete, reasonable, understandable, consistent, and fully explained. The conclusions presented in the traffic impact analysis shall be consistent with and supported by the data, calculations, and analyses in the report. Calculations, graphs, tables, data, and/or analysis results that are contrary to good common sense or not consistent with and supported by the data will not be accepted. In such events, the Director of Public Works shall return the traffic impact analysis to the development applicant for correction.

Section 18-4-15. Recommendations for Mitigation of Impacts

Within 10 working days of receipt of a completed traffic impact study, the Director of Public Works shall complete their review of the study and submit to the Director of Community and Economic Development all recommendations for mitigation measures as stated in the traffic impact study and include any interpretations or recommended conditions of approving the discretionary development proposal that will mitigate traffic impacts of the proposed development.

Section 18-4-16. Determination of Project and System Improvements

(a) Upon receipt of the recommendations of the Director of Public Works with regard to the traffic impacts of the discretionary development proposal, the Director of Community and Economic Development shall determine which mitigation measures constitute "project" improvements and which mitigation measures constitute "system" improvements within the context of the Georgia Development Impact Fee Act of 1990.

(b) In the event that a particular improvement is called for in the traffic impact study or recommended by the Director of Public Works, and the Director of Community and Economic Development is unable to uniquely attribute the recommendation as a project or system improvement or finds that such

improvement has characteristics of both a project improvement and a system improvement, the Director of Community and Economic Development, with the assistance of the Director of Public Works, if necessary, shall determine the proportion of the cost of such improvement that can reasonably be attributed to the development as a project improvement, and the portion of such improvement that can reasonably be considered a system improvement.

Section 18-4-17. Conditions of Development Approval for Project Improvements

Upon the determination of project improvements needed to mitigate the traffic impacts of the discretionary development proposal as provided in this chapter, the Director of Community and Economic Development shall recommend that the project improvements be completed by the developer as conditions of approval of the discretionary development proposal.

Section 18-4-18. System Improvements

When the Director of Public Works recommends improvements as a condition of a development proposal that the Director determines are wholly or partially "system" improvements, the Director of Community and Economic Development may include such recommendations in the recommended conditions of approval for the discretionary development application. The development applicant and the city in the case of system improvements shall have the following options:

(a) The applicant for a discretionary development proposal may voluntarily agree to pay for the cost of providing the system improvements, or a pro-rated share of the cost of said system improvements that are reasonably attributed to the subject development, as determined by the city.

(b) In the case of an application for discretionary development proposal before the Governing Body, the city may find that the proposed development will provide substantial adverse impacts on the transportation system. The city may find further that the existing transportation system is insufficient to serve the proposed development and that the city is unable to provide adequate transportation facilities within a reasonable amount of time after the impacts of said development would occur. Given such findings, the Governing Body may reduce the development density or intensity to the degree that the impacts of the development proposal do not degrade transportation facilities below accepted level of service standards, require a phasing of the development in a manner that adequate public facilities will be provided publicly or privately, or in cases where such other alternatives do not address the adverse impacts, deny an application for a discretionary development proposal.

Section 18-4-19. Appeal

An applicant for a discretionary development proposal may appeal the decision of the Director of Public Works or the Director of Community and Economic Development in the administration and interpretation of this chapter to the Planning and Appeals Board as an appeal of an administrative decision as provided in this Code.

CHAPTER 18-5 DEVELOPMENT OF REGIONAL IMPACT

Section 18-5-1. Definitions

(a) **Initial DRI information form**: A form intended to identify basic information about a proposed development of regional impact on which a local government is being requested to take action, and which provides information to the Regional Development Center (RDC). This form notifies the RDC of a potential development of regional impact in order for the RDC to meet its responsibilities within the DRI review process.

(b) **DRI Review initiation request form**: A form intended to provide additional information about the proposed project to the Regional Development Center (RDC), the submission of which serves as an official request that the DRI review process be started by the RDC.

(c) **Regional Development Center**: The Georgia Mountains Regional Development Center.

Section 18-5-2. Applicability

This Chapter shall apply when an applicant (industry, business, or developer) requests some type of local government action related to a project, such as, but not limited to, a request for a zoning change or Special Use, zoning variance, permit, hookup to a water or sewer system, master or site plan approval, or entering into a contract, and it appears that the proposed development (or, for multi-phased projects, the complete development) meets the threshold(s) of a development of regional impact, according to "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001, as may be amended from time to time.

Section 18-5-3. Jurisdiction

If a proposed development project is to be located in more than one jurisdiction and, in total, the proposed development meets or exceeds a DRI threshold; the local government in which the largest portion of the project is to be located is responsible for initiating the DRI review process.

Section 18-5-4. Procedures

(a) The application procedures established in Chapter 18-2 and Chapter 18-3 will be modified by this Chapter in cases where a Rezoning or Special Use application, or an annexation application respectively, fits the definition of a "development of regional impact." Developments of regional impact will be processed according to procedures of the Georgia Department of Community Affairs as described in "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, effective July 1, 2001, as may be amended from time to time.

(b) When an application is received for development that meets or exceeds the thresholds established for that development type and thus constitutes a "development of regional impact" according to the aforementioned Rules of the Georgia Department of Community Affairs, the city will follow the procedures identified in said administrative rules which are summarized here.

(c) When an application for a development of regional impact is received, the Director or their designee, on behalf of the city, will complete an "Initial DRI Information" form and a "DRI Review Initiation Request" form. Each of these two forms may be submitted to the Regional Development Center simultaneously, provided the city has all necessary project-related information.

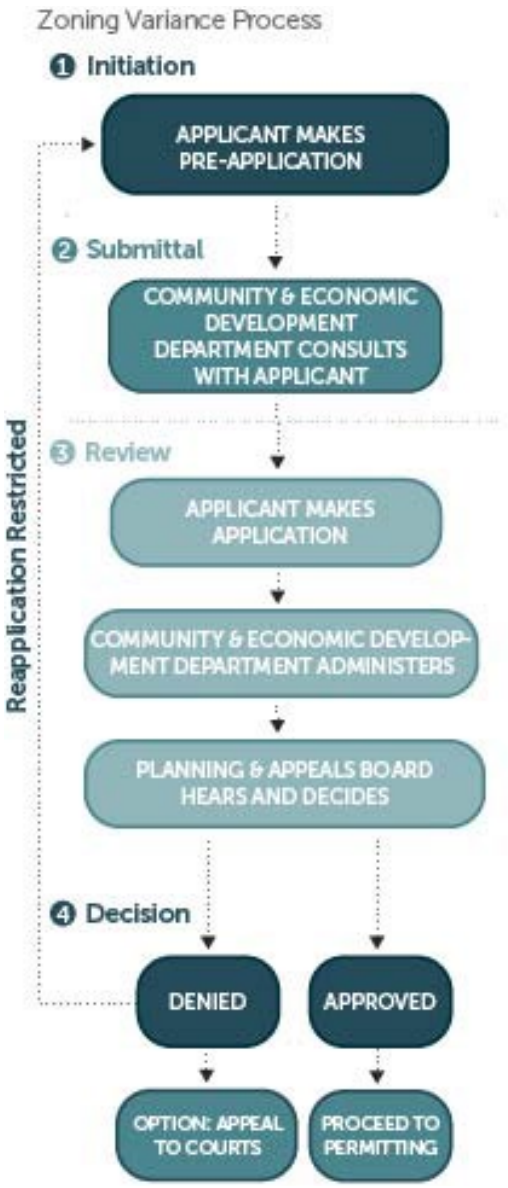
(d) The city shall not take any official legislative or administrative action to advance or further a DRI project until the review process identified under the DRI review procedure specified in "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001," as may be amended from time to time, is completed. The city may undertake preliminary staff administrative functions associated with a proposed DRI including, but not limited to, project

evaluation/assessment, site visits, and placing consideration of the application on a future agenda for formal action, if required. The city shall not take any official action related to such a project until the DRI review process is completed and the city has had adequate time to consider the DRI review comments.

(e) After the DRI review process is completed, the city may proceed with whatever action it deems appropriate regarding the proposed project, although it is encouraged to take the public finding and additional comments into consideration as it makes its decision.

(f) If the project receives a negative public finding from the Regional Development Center and the city approves said project or takes action to advance said project, the city shall notify the Regional Development Center and the Georgia Department of Community Affairs of its action and identify all local requirements it has placed on the development that could mitigate any negative findings identified in the DRI review process.

CHAPTER 18-6 VARIANCES



Section 18-6-1. Generally

Persons may seek relief from compliance with the zoning-related requirements of this ULDC when the strict application would create a particular and unique hardship based on the criteria established in Section 18-6-11 by filing an application for variance with the Community and Economic Development Department for consideration by the Planning and Appeals Board in accordance with this chapter. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant nor to gain any advantage or interest over similarly zoned properties.

Section 18-6-2. Initiation

(a) An application for a zoning variance for any property or properties in the city may be initiated by the Governing Body, owner of the property, or some other person(s) given authorization by property owner to file said application.

(b) Any applicant wishing to apply for a zoning variance request must schedule an appointment with the Community and Economic Development Department to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 18-6-3. Waiting Period for Reapplication

If denied, a variance request affecting the same property shall not be reconsidered for a period of 12 months from the date of denial; provided, however, that the Planning and Appeals Board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the Planning and Appeals Board during the public hearing at which the request was first considered.

Section 18-6-4. Requirements for Submittal

Applications for zoning variance shall include the following:

(a) Application form. A completed original application. All applications shall be submitted to the Community and Economic Development Department on the department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body initiates the application.

(c) Plat or boundary survey. A to-scale plat or boundary survey of the property or properties involved in the application, submitted in a PDF format or other format accepted by the city.

(d) Statement of hardship. Form with various questions to be answered by an applicant in a manner describing how each situation applies to the application. The applicant may complete the questions on the form provided with the application, or the applicant can type the answers on a separate sheet of paper as part of the written narrative, identifying each component as such.

(e) Written narrative. A written narrative indicating, at a minimum, the following:

(1) The purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.

(2) A full description of the concept plan and must include the proposed use, setbacks, right-of- way widths, building heights, signage, the maintenance and ownership of any streets or roads, and plans for the maintenance of any stormwater facilities.

(f) Architectural renderings. Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:

(1) Roof pitch;

(2) Materials to be used on exterior;

(3) Basic landscaping proposed; and

(4) Building elevations.

(g) Concept plan. An application for a zoning variance approval related to a residential subdivision, multi-family, or non-residential use or zoning district shall be accompanied by a concept plan if any new

construction is proposed or alteration of the site is required under the site or development design standards of this Code. An as-built survey indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan shall meet the requirements of Section 9-18-6-5.

(h) The director may request information in addition to that specified in this section when considered necessary for review of the application by the Governing Body or Planning and Appeals Board.

Section 18-6-5. Specifications for Concept Plans

Applications for a variance shall include a concept plan submitted in electronic format and drawn to scale on a boundary survey of the tract by a state-licensed architect, engineer, landscape architect, or land surveyor. The concept plan shall at minimum include the information specified in this section.

(a) Name, address and telephone number of the property owner.

(b) Name, address and telephone number of the applicant.

(c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(d) Proposed use of the property.

(e) Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre).

(f) Location map of the property in relation to the surrounding area with regard to well- known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to two thousand (2,000) feet. U.S. Geological Survey maps may be used as a reference guide.

(g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.

(h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, utilities, existing buildings to remain, and other features as appropriate to the nature of the request.

(j) The proposed project layout including:

(1) For residential development projects, approximate lot lines and street right-of-way lines, along with the building setback lines.

(2) For multi-family and non-residential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas, and driveways.

(k) The proposed phasing of the development if it is proposed to be built in sections.

(l) A statement as to the source of domestic water supply.

(m) A statement as to the provision for sanitary sewage disposal.

(n) A statement as to the provision for solid waste disposal.

(o) A statement as to the practicability of runoff reduction and feasibility of site and size of aboveground and/or belowground stormwater BMPs with respect to desired zoning density.

(p) The approximate location and surface area of proposed stormwater facilities.

(q) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Section 18-6-6. Notice of Public Hearing in Newspaper

Before the Planning and Appeals Board may take final action on a proposed variance application, the Planning and Appeals Board shall hold a public hearing on the proposal. At least 15 days but not more than 45 days prior to the public hearing before the Planning and Appeals Board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Community and Economic Development Department and shall include the location of the property, the present zoning classification of the property, the variance requested, and the date, time, and place of the public hearing before the Planning and Appeals Board.

Section 18-6-7. Notice of Public Hearing by Sign on Property

At least 15 days but not more than 45 days prior to the public hearing, the city shall post a sign or signs stating the date, time and place of the public hearing before the Planning and Appeals Board, the present zoning classification and the proposed variance. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the variance has been requested. For properties with street frontage greater than 600 feet in length, one such sign shall be placed for each 600 feet of street frontage or portion thereof. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property.

Section 18-6-8. Notice to Adjacent Property Owners

At least 10 days prior to the Planning and Appeals Board public hearing, the City shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the variance application. The written notice shall be mailed to the property owners as such names and addresses appear on the county's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the Planning and Appeals Board.

Section 18-6-9. Investigations and Staff Recommendation

(a) Within a reasonable period of time after acceptance of a complete application, the director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Planning and Appeals Board and Governing Body or summarized in a memorandum. Any such comments shall become public records.

(b) The Director may but shall not be required to investigate and make a recommendation regarding the variance application. Any such investigation and recommendation if in writing be made available to the applicant and Planning and Appeals Board prior to its public hearing and shall become public records. Copies of the Director's findings and recommendations, if provided, shall be available no later than the time of the Planning and Appeals Board 's public hearing on the matter.

Section 18-6-10. Planning and Appeals Board Hearing and Action

(a) The Planning and Appeals Board shall convene a public hearing on the variance application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 18-9. The Planning and Appeals Board shall have 65 calendar days from the date of its public hearing within which to take final action on the variance application.

(b) In rendering a decision on a variance application, the Planning and Appeals Board shall consider all information supplied by the applicant, the Director, and any information presented at the public hearing

of the Planning and Appeals Board. After conducting a public hearing, in taking action on an application, the Planning and Appeals Board may:

(1) Approve the application as submitted.

(2) Approve the application with conditions.

(3) Deny the proposal.

(4) Table the proposal for consideration at a future meeting, provided it acts within its allotted 65-day review period.

(c) The action of the Planning and Appeals Board on the variance application shall be final. Any person adversely affected by any determination made by the Planning and Appeals Board relative to the approval or denial of a variance application may appeal such determination to the Governing Body.

Section 18-6-11. Criteria to Consider for Variance Applications

The Planning and Appeals Board shall consider the following standards in considering any variance application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

(b) The application of this Code to this particular piece of property would create an unnecessary hardship; and

(c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

(d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Code.

(e) There must be a proved hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.

(f) The hardship cannot be self-created; e.g., as in a case where the lot was purchased with the knowledge of an existing restriction.

Section 18-6-12. Withdrawal of Application

(a) A variance application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, until the public hearing by the Planning and Appeals Board is closed.

(b) If the applicant withdraws the application prior to the publication of notice for public hearing before the Planning and Appeals Board, the application shall be withdrawn administratively by the Director without restriction on the refiling of a proposed variance on the property in the future.

(c) If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the Planning and Appeals Board, the application shall be withdrawn administratively by the Director and an application for variance on the property may not be resubmitted for 6 months from the date of withdrawal.

(d) If the request for withdrawal is made at the Planning and Appeals Board public hearing on the case, the request may be approved by a majority vote of the board, but an application for a variance on the property may not be resubmitted for 12 months from the date of withdrawal. However, the Planning and Appeals Board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the Planning and Appeals Board during the public hearing at which the request was first considered.

Section 18-6-13. Provisions That Cannot be Varied

In no case shall a variance be granted for any of the following:

(a) A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.

(b) A change in the conditions of approval imposed through a rezoning application approved by the Governing Body.

(c) Reduction of a minimum lot size required by a zoning district.

(d) Use of land or buildings or structures that is not permitted by the zoning district that is applicable to the property.

(e) Any increase in the number of dwelling units or nonresidential building floor area otherwise permitted by the zoning district that is applicable to the property.

Section 18-6-14. Duration of Validity

Approval of a zoning variance on a property located within the city shall be in full force and effect upon its approval by the Planning and Appeals Board and shall be effective for a period of 12 months. If no action is taken by the applicant to implement the purpose of the application within 12 months from the date of approval, said approval shall become null and void unless an extension is granted by the Director with good cause. A zoning variance shall be specific to the request made by the current applicant.

CHAPTER 18-7 APPEALS

Section 18-7-1. Appeal as a Remedy

Persons may appeal to the Planning and Appeals Board for relief when aggrieved by an action or an interpretation of an administrative official of the City made under this Unified Land Development Code. All such requests for relief shall be taken as an appeal to the Planning and Appeals Board, as provided in this Chapter.

Section 18-7-2. Initiation

(a) Appeals of an administrative decision may be initiated by any person aggrieved by a decision made under this Unified Land Development Code or by an officer or department head of the City. Such appeal shall be initiated within 15 days of the action or decision being appealed by filing with the Director an application for an appeal of an administrative decision. If the person aggrieved by an action within this Unified Land Development Code does not initiate an appeal within 15 days, then the decision of the administrative official shall stand, and no further administrative remedy shall be available under this Ordinance.

(b) Any applicant wishing to submit an appeal of administrative decision must schedule an appointment with the Community and Economic Development Department staff to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 18-7-3. Administrative Resolution

The Director of Community and Economic Development will attempt to resolve the issue within 15 days of receipt of the notice of appeal. Unresolved issues will be referred to the Planning and Appeals Board for final action.

Section 18-7-4. Requirements for Submittal

To initiate an appeal, an application must be submitted to the Community and Economic Development Department which shall include the following:

(a) Application form. A completed original application. All applications shall be submitted to the Community and Economic Development Department on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) Written narrative. A written narrative explaining the request and purpose for the appeal.

The Community and Economic Development Department, in reviewing an application, shall also be authorized to require any supporting information necessary to review an administrative decision on the record necessary to resolve the request for appeal. These may include but are not limited to plat or boundary survey, architectural renderings, or concept plan or as-built surveys. When the appeal application is referred to the Planning and Appeals Board, the applicant shall be required to submit a sufficient number of scaled and reproducible size copies of such supporting documentation as determined by the Director.

Section 18-7-5. Public Notice and Public Hearing

An application for an appeal approval shall comply with the public notice and public hearing process as described in Chapter 18-2 of this ULDC for a rezoning or special use request, with the exception that a decision by the Planning and Appeals Board shall constitute final action.

Section 18-7-6. Stay of Proceedings

The filing of a completed application for an appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the officer or department head from whom the appeal is made certifies to the Planning and Appeals Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed unless the applicant for appeal of an administrative decision gains a restraining order which must be granted by a court of competent jurisdiction.

Section 18-7-7. Decision

(a) The Planning and Appeals Board shall make findings and render a decision after the initial public hearing on the appeal application. The Planning and Appeal Board's Secretary shall notify the applicant, in writing, of its decision within five days after the Board has rendered its decision.

(b) The Planning and Appeals Board may affirm, overrule or modify, in whole or in part, the rulings of an administrative officer's decision or interpretation pursuant to this ULDC. In cases where an appeal is granted, the Planning and Appeals Board may direct the issuance of land development permits or building permits, not otherwise inconsistent with this ULDC or other ordinance adopted by the Governing Body.

(c) A decision of the Planning and Appeals Board pursuant to this Chapter may be appealed to the Governing Body.

Section 18-7-8. Effect

Approval of an appeal on a property located within the City shall be in full force and effect upon its approval by the Planning and Appeals Board. An appeal approved by the Planning and Appeals Board on a property located within the City shall be effective for that specific request and applicant. Approval of said appeal shall not be transferable.

CHAPTER 18-8 TEXT AMENDMENTS



Section 18-8-1. Applicability

This Ordinance may be amended from time to time in whole or in part by the Governing Body under the provisions of this Section.

Section 18-8-2. Initiation

A text amendment may be initiated by the Governing Body or by the Director or other City departmental director.

Section 18-8-3. Application Requirements

A pre-application meeting with the Director is required prior to filing a text amendment. Applications for text amendments shall require submittal of the following:

(a) Application form. A completed original application. All applications shall be submitted to the Community and Economic Development Department on the Department's application forms, including signed and notarized signature of property owner.

(b) Letter of intent. A written narrative describing the purpose of the request and addressing how the proposed application meets the criteria to consider for text amendments as specified in Section 18-8-5.

(c) Disclosure. A statement of disclosure complying with O.C.G.A. 36-67-1, "Conflict of Interest in Zoning Actions," if not incorporated into the required application form.

(d) Representation. A written and signed notification from the owner authorizing an agent to represent the owner in the application process. Authorization shall be on a City supplied form.

In cases where an applicant is proposing a text amendment to modify an existing zoning district or create a new zoning district, and where the applicant also desires to rezone property to the modified or new zoning district, the two applications shall not be considered concurrently.

Section 18-8-4. Notice of Public Hearings

Before the Governing Body may take final action on a proposed text amendment it shall hold a public hearing on the proposal. At least 15 days but not more than 45 days prior to the public hearing, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Community and Economic Development Department and shall include the nature of the proposed text amendment, and the date, time and place of the public hearing.

Section 18-8-5. Criteria to Consider for Text Amendments

The Governing Body shall consider the following standards for text amendments, giving due weight or priority to those standards that are appropriate to the circumstances of each proposal:

(a) The extent to which the proposed text amendment is consistent with the purpose and intent of this Unified Land Development Code.

(b) The extent to which the proposed text amendment is compatible with the purpose and intent of the Comprehensive Plan.

(c) Whether the proposed text amendment adequately addresses new or changing conditions in the city.

(d) Whether the proposed text amendment is needed to properly implement the Comprehensive Plan.

(e) The extent to which the proposed text amendment promotes the public health, safety, morality or general welfare of the city.

Section 18-8-6. Action by Governing Body

The Governing Body shall hold a public hearing on the text amendment. In rendering a decision on any such text amendment, the Governing Body shall consider all information supplied by the Director and information gained at its own public hearing. The Governing Body shall either approve or deny the application, or it may modify the text amendment language as proposed or recommended and approve the text amendment as modified.

Section 18-8-7. Withdrawal of Application

Any application for a text amendment may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing is closed.

Section 18-8-8. Effect

(a) Approval of a text amendment shall be in full force and effect upon its approval or upon the stated effective date and shall apply to every property for which a use has not been established or for which a building permit or development permit may subsequently be requested.

(b) For a property on which a use, building, structure or other improvements existed in conformity with this ULDC prior to the effective date of a text amendment affecting the property, any such use, building, structure or other improvements no longer in conformance shall be governed under the provisions for nonconformities in Article 10. Construction of any use, building, structure, or other improvements for which a building permit has been issued in conformity with this ULDC prior to the effective date of a text amendment may continue to completion as though no change had occurred and, upon completion, shall be governed under the provisions for nonconformities in Article 10, as applicable.

Section 18-8-9. Waiting Period for Reapplication

There shall be no waiting period for reapplication of text amendments.

CHAPTER 18-9 PROCEDURES FOR PUBLIC HEARINGS



Section 18-9-1. Applicability

Any public hearing required by this Article shall be called and convened at the scheduled time and place, and it shall be conducted in accordance with the procedures of this Chapter. For purposes of this Chapter, the term "hearing body" shall refer to the Governing Body, the Planning and Appeals Board, and the Historic Preservation Commission. Nothing contained in this Chapter shall be construed as prohibiting a presiding official or hearing body from conducting a public hearing in a fair, orderly, and decorous manner.

Section 18-9-2. Presiding Official

The presiding officer shall preside over the public hearing as follows:

(a) Governing Body. In the case of a Governing Body, the Mayor shall have authority to preside but may delegate the presiding official's duties to the City Attorney. In the absence of the Mayor, the Mayor Pro

Tempore shall have authority to preside but may delegate the presiding official's duties to the City Attorney. In the absence of both the Mayor and Mayor Pro Tempore, another member of the Governing Body shall have authority to preside but may delegate the presiding official's duties to the City Attorney.

(b) Planning and Appeals Board. In the case of the Planning and Appeals Board, the chairperson of said Board shall preside, or in the absence of the chairperson, the vice chairperson if designated, or if neither is present to preside, another member of the Board shall be designated to preside.

(c) Historic Preservation Commission. In the case of the Historic Preservation Commission, the chairperson of said Commission shall preside, or in the absence of the chairperson, the vice chairperson if designated, or if neither is present to preside, another member of the Commission shall be designated to preside.

Section 18-9-3. Opening of Public Hearing

The presiding official shall indicate that a public hearing has been called on one or more applications made pursuant to this Article, shall summarize the processes required by this Chapter, and shall open the public hearing. Thereupon, the presiding official shall call the first case and the hearing body shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the hearing body; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and 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.

Section 18-9-4. Report of Director

Upon opening the public hearing, the presiding official shall, unless he or she elects to summarize and present information about the application personally, recognize the Director or their designee of the Community and Economic Development Department, who shall provide a summary of the application and present any recommendations or results of investigations. In the case of public hearings before a Governing Body, unless a member of the Planning and Appeals Board or Historic Preservation Commission is present and is authorized and willing to speak for the Board on the subject application, the Director or their designee shall also summarize the recommendations made by the Planning and Appeals Board or Historic Preservation Commission. Any member of the hearing body upon recognition by the presiding official may ask questions of the Director or their designee or other city official, Planning and Appeals Board, or Historic Preservation Commission representative providing the report or recommendations.

Section 18-9-5. Applicant

(a) When an individual application comes up for hearing, the presiding official 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 that which may reasonably be heard, the presiding official may request that a spokesperson for the group be chosen to make presentations. Following the report of the Director or designee, the presiding official shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application.

(b) There shall be a minimum time period of 10 minutes per application at the public hearing for the proponents to present data, evidence, and opinions; the hearing body shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time. Any member of the hearing body upon recognition by the presiding official may ask questions of the applicant or agent of the applicant, or both. Time devoted to questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 18-9-6. Public

(a) At the conclusion of the applicant's presentation, the presiding official shall initiate the public comment portion of the public hearing. When an individual application comes up for review, the presiding official may ask for a show of hands of those persons who wish to ask questions, make comments, and/or appear in opposition to the application. If it appears that the number of persons wishing to ask questions, make comments, or appear in opposition to the application is in excess of that which may reasonably be heard, the presiding official may request that a spokesperson for the group be chosen to make presentations and ask questions, or appear in opposition. There shall be a minimum time period of 10 minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions; the hearing body shall not be obligated to provide the full allotted time per application to the opponents if they elect not to use that much time.

(b) Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his or her remarks only to the hearing body. 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 official may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.

(c) The hearing body will consider the questions raised during the public portion of the hearing and may elect to answer questions following the speakers, or it may defer questions to the applicant to be answered during rebuttal. Any member of the hearing body upon recognition by the presiding official may ask questions of a member of the public giving testimony. Time devoted to questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 18-9-7. Applicant's Rebuttal

(a) At the conclusion of public testimony, or upon the expiration of time allotted for public testimony, the applicant or his or her agent, or both, shall be allowed a short opportunity for answer questions, rebut the testimony of the public, and provide final comments and remarks. The time devoted to any such rebuttal shall be counted toward the total 10 minutes allotted to the applicant if a time limit is set by the presiding official.

(b) Any member of the hearing body upon recognition by the presiding official may ask questions of the applicant, his or her agent, or both. Time devoted to questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 18-9-8. Close of Hearing

After the foregoing procedures have been completed, the presiding official will 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 address the hearing body in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding official may reopen the public hearing for a limited time and purpose.

Section 18-9-9. Decision

(a) After the public hearing is closed, the hearing body 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.

(b) After hearing evidence, in making a decision, the hearing body shall apply the evidence to the criteria specified in this Article, as appropriate given the type of application. It will not be required that the

hearing body consider every criterion given the type of 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, morality or general welfare.

(c) If the hearing body determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the hearing body on its own initiative or as may be recommended by the Planning and Appeals Board or the Director. Otherwise, such application shall be denied. In cases where one or more companion applications are submitted and the Governing Body attaches conditions to the application, such conditions shall unless otherwise specifically stated otherwise become conditions of approval for each companion application.

Section 18-9-10. Planning and Appeals Board Special Provisions

In the case of the Planning and Appeals Board, the following provisions shall apply to its decision making:

(a) A total of four Planning and Appeals Board members present shall constitute a quorum. A majority vote of quorum shall be necessary to approve any decision or recommendation.

(b) If a motion to recommend approval of an application fails, the application is automatically recommended for denial. If a motion to recommend denial of an application fails, another motion would be in order.

(c) A tie vote on a motion to recommend approval of an application shall be deemed a recommendation for denial of the application. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order.

(d) If no action is taken on an application, it will go forward to the Governing Body with no recommendation.

Section 18-9-11. Historic Preservation Commission Special Provisions

In the case of the Historic Preservation Commission, the following provisions shall apply to its decision making:

(a) A motion to recommend approval or denial of a designation application, or a motion to approve or deny a Certificate of Appropriateness, must be approved by an affirmative vote of at least three members for the motion to be approved.

(b) A recommendation to approve or deny a proposed ordinance for designation shall be made by the Historic Preservation Commission following the public hearing, and shall be in the form of an ordinance to the Governing Body.

(c) The Historic Preservation Commission shall hold a public hearing and act upon all proposed Certificates of Appropriateness within 45 days of receipt of a complete application. Should a request for a Certificate of Appropriateness be tabled, the 45 day period will start over to allow time for the applicant to modify an application for a Certificate of Appropriateness. Failure of the Historic Preservation Commission to act within said 45 days shall constitute approval, and no other evidence of approval shall be needed. This deadline may be extended with consent of the applicant should a request for a Certificate of Appropriateness be tabled. The new deadline shall be determined as part of the motion and vote tabling the request for a Certificate of Appropriateness.

ARTICLE 19 HISTORIC PRESERVATION

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CHAPTER 19-1 DEFINITIONS

Section 19-1-1. Definitions

Alteration. A visible change to the exterior of a structure, or work which impacts any exterior architectural feature. Alteration includes construction, reconstruction, introduction or removal of any building or building element, landscape feature, or other element of the site which contributes to the historic character or context or natural, cultural or aesthetic significance of the site.

Certificate of appropriateness. A document that is evidence of the approval by the Historic Preservation Commission (or in the case of minor projects, by the Director of Community and Economic Development) for a person to make a material change in the appearance of a designated historic property or property located within a designated historic district.

Character-defining. An element whose design and material is associated with the age and style of a building and helps define its architectural style; parts of a structure that make it distinctive.

Commission. The Historic Preservation Commission of the City of Gainesville, Georgia.

Design guidelines. Standards (not laws) that are an extension of the Secretary of the Interior's Standards for Rehabilitation used for evaluating proposed changes to locally designated historic landmarks or buildings, structures, site features, and other exterior elements of properties located within a locally designated historic district.

Designation. A decision by the Gainesville City Council to designate an individual landmark or district as "historic" and thereafter prohibit all exterior material changes in appearance prior to the issuance of a Certificate of Appropriateness.

Exterior architectural features. The architectural style and general arrangement or design of the exterior of a building or other structure including, but not limited to, the kind or texture of the building material, the type and style of all windows, doors, signs, and any other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features. All those aspects of the landscape or the development of a site which affect the historical character of the property, including but not limited to significant trees, landscape features, walls, fences, signs or other appurtenant elements thereof including any improvement, grading or alteration of the land.

Georgia Historic Preservation Act. The state enabling legislation which authorizes communities in Georgia to establish a local historic preservation commission and establishes minimum standards for local jurisdiction historic resources protection that is not tied to the exercise of zoning power. The Georgia Historic Preservation Act provides a benchmark against which each local governing jurisdiction may either evaluate existing preservation policy or formulate a preservation policy tailored to local needs.

Historic district. A geographically definable area designated by the Governing Body which contains structures, sites, works of art or a combination thereof which:

(a) Exhibit a special historical, architectural, environmental character, or aesthetic interest or value;

(b) Represent one or more periods or styles of architecture typical of one or more eras in history; and

(c) Cause such area, because of such factors, to constitute a visibly perceptible section of the city.

Historic fabric. Materials original to a building or structure.

Historic landmark. An individual structure, site, or work of art, including the adjacent area necessary for the proper appreciation or use thereof, designated by the Governing Body as worthy of preservation due to its value to the city, county, state or region for one or more of the following reasons:

(a) It is an outstanding example of a structure representative of its historic era;

(b) It is one of the few remaining examples of a past architectural style;

(c) It is a place or structure associated with an event or person of historic or cultural significance to the city, county, state or region; or

(d) It is a site of natural or aesthetic interest which contributes to the cultural or historic development and heritage of the city, county, state or region.

In-kind. Using the exact same material when replacing a damaged architectural element.

Integrity. The state of being unimpaired – both a building and its setting. Authenticity of a property's historic identity, evidenced by the survival of physical characteristics (i.e. location, setting, design, materials and workmanship) that existed during the property's historic period.

Major work project. Unless further clarified in the approved design and construction guidelines, this involves a change in the appearance of a structure or site and is more substantial in nature than routine maintenance or minor work projects.

Material change in appearance. A change that will affect either the exterior architectural features or exterior environmental features of an historic property or any structure, site or work of art within an historic district, and may include any one or more of the following:

(a) A reconstruction or alteration of the size, shape, or facade of an historic property or other element, including the relocation of windows or doors or the removal or alteration of any architectural features, elements or details;

(b) Demolition or relocation of a historic building or structure;

(c) Commencement of excavation for construction purposes;

(d) A change in the location of advertising or parking area visible from the public right-of-way; or

(e) The construction, alteration, restoration, or removal of any building or other structure within an historic property or district, including outbuildings, walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.

Minor work project. Unless further clarified in the approved design and construction guidelines, this involves a change that goes beyond ordinary maintenance but does not constitute a significant or character-altering change in the appearance of a structure or site.

Ordinary or routine maintenance. Any action performed in order to preserve historic materials and other elements – including minor replacement of materials in-kind provided that no change in the design or general appearance is made to a structure or site.

Preservation. The sustaining of the existing form, integrity and material of a building or structure; and the existing form and landscaping of a site.

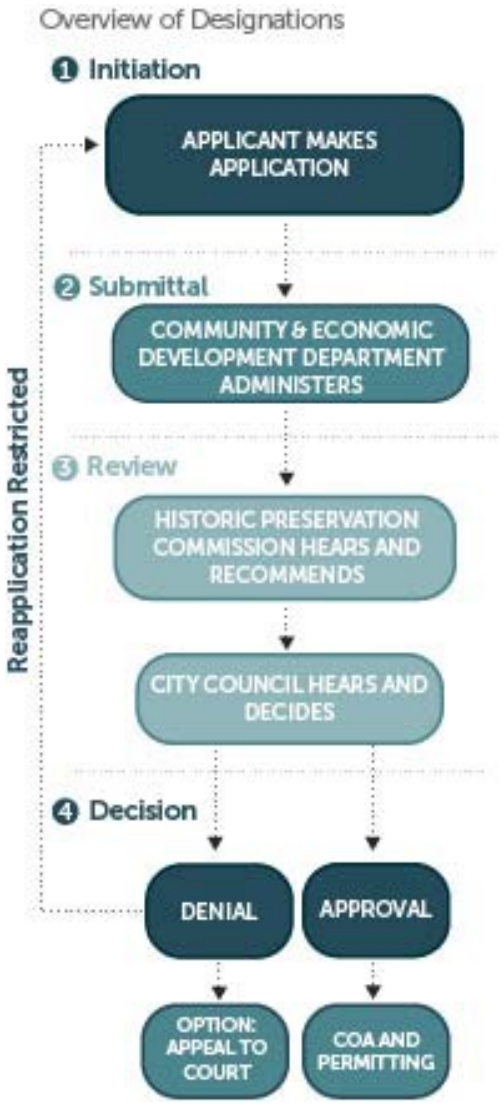
Rehabilitation or renovation. Returning a structure or property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those components that are significant to the historical, architectural and cultural values.

Remodel. To alter a structure in a way that may or may not be sensitive to the preservation of its significant architectural forms and features.

Restoration. Accurately recovering the form and details of a structure and its setting as it appeared at a particular time in history by removing recent work and/or replacing missing earlier work.

Work project. Any work performed to maintain and repair an existing structure or site and landscape feature; or any work performed to replace an existing structure or site and landscape feature, or component of such; or any work to build new construction (additions, infill, outbuildings, fences, etc.).

CHAPTER 19-2 DESIGNATIONS



Section 19-2-1. Generally

(a) The purpose of this Chapter, and other historic preservation related chapters of this Unified Land Development Code, is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value. An individual landmark or a group of properties comprising a district may be designated as local historic landmarks and districts, respectively, under the procedures in this Chapter.

(b) The Historic Preservation Overlay and Historic Preservation Overlay Maps, as described in Chapter 7-7 of this Unified Land Development Code, may be amended from time to time to include new or separate, noncontiguous designated historic districts, to modify existing local historic districts, to designate historic landmarks, or for other reason, provided that such amendment conforms to the provisions of this Chapter and O.C.G.A. Section 44-10-26 as applicable.

(c) If an ordinance for designation is being considered, the Governing Body shall have the power to suspend or issue a moratorium on applications for alteration or demolition involving a property or properties under consideration for designation; in which case, no building or demolition permits shall be issued until the final designation status is determined.

Section 19-2-2. Initiation

(a) Local designations for either districts or individual landmarks may be proposed to be established, or to be rescinded, by the Governing Body, the Historic Preservation Commission, or property owner(s). Local designations shall be considered as amendments to the Historic Preservation Overlay as described in Chapter 7-7.

(b) An application for designation shall be accompanied by such drawings, photographs or plans as required by Section 19-2-3, or as may be required by the Director or Historic Preservation Commission. Any applicant wishing to submit an application for a designation request should schedule an appointment with the Department of Community and Economic Development staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 19-2-3. Requirements for Submittal

All applications for designations shall at a minimum consist of the following:

(a) Districts

(1) Application form. A completed application submitted to the Department of Community and Economic Development on forms provided by the Department.

(2) Boundary map. Provide a map of the proposed district, showing property boundary lines and the proposed district boundary line as well as streets and street names. This map should include the proposed name of the district. Indicate the historic or common name of each site. Maps can be a copy of the tax map, or the applicant can obtain a map of the general area from the Department of Community and Economic Development upon request and for a fee, if applicable.

(3) List of current property owners and occupants. Provide a list of all current property owners and occupants, including name and mailing address, for the properties to be designated as a district. A paper copy and an electronic copy shall be submitted.

(4) Photographs. Provide a clear set of recent photographs of at least 4” x 6” in size or in a high-resolution digital format. The photographs may be black and white or color. Polaroids will not be accepted. Provide photographs of a structure representative of each architectural style within the proposed district as follows:

i. Provide one photograph of each elevation with text identifying the view (e.g. “south elevation” or “main entry”).

ii. Provide two perspective photographs (i.e. Photo looking at the front of the structure, including some of the front lawn area and any other unique feature).

iii. Provide additional photographs of garages, outbuildings, historic landscape features including any significant or Champion trees, or other significant features that will aid the visual representation and architectural significance of the district.

iv. Type the following information on a self-adhesive label and attach it to the back of each photograph or typed on a separate attachment: common name of property, street address and tax parcel number, name of photographer, date of photo, and view and direction.

(5) Written statements. On the "Written Statements" form included with the application form provided by the Department (or as typed on a separate attachment), provide detailed information with respect to the significance of the district, description of the proposed district, history of the proposed district, and statement of justification.

(b) Individual landmarks.

(1) Application form. A completed application submitted to the Department of community and Economic Development on forms provided by the Department.

(2) Plat/boundary survey. Provide a plat/boundary survey that is prepared by a registered land surveyor and depicts at a minimum the property boundary lines, all existing structures, and street names.

(3) Legal description. Legal description with the metes and bounds that corresponds with the said plat or boundary survey. A paper copy and an electronic copy in Microsoft Word format of the legal description must be submitted.

(4) Copy of grant deed. Provide a copy of the grant deed which verifies current ownership. Such information should match the information held to be true by the Hall County Tax Assessor's Office.

(5) Photographs. Provide a clear set of recent photographs of at least 4x6 in size or in a high-resolution digital format, following the guidelines outlined in this Section for district designations.

(6) Written statements. On the "Written Statements" form included with the application form provided by the Department (or as typed on a separate attachment), provide detailed information with respect to the significance of the district, description of the proposed district, history of the proposed district, and statement of justification.

(c) The Director may request information in addition to that specified in this Section when considered necessary for review of the application by the Governing Body or Historic Preservation Commission.

Section 19-2-4. Notice of Public Hearing by Historic Preservation Commission

(a) Notice in the Newspaper. Before the Governing Body may take final action on a designation application, the Historic Preservation Commission shall hold a public hearing on the proposal. At least 10 days but not more than 20 days prior to the public hearing before the Historic Preservation Commission, notice shall be published at least three times in a newspaper of general circulation within the city. The published notice shall be prepared by the Community and Economic Development Department and shall include a general description of the location(s) to be considered for designation, total acreage, and the date, time, and place of the public hearing before the Historic Preservation Commission.

(b) Notice to Owners and Occupants of Properties Proposed for Designation. At least 10 days but not more than 20 days prior to the public hearing before the Historic Preservation Commission, the Community and Economic Development Department shall mail written notice of the public hearing to all owners and occupants of such properties. Notice sent via the United States Mail to the last-known owner and current occupant of the property shall constitute legal notification to the owner and occupant under this Chapter. The notice shall state the date, time, place and purpose of the hearing by the Historic Preservation Commission.

Section 19-2-5. State Documentation Report; Investigations and Staff Findings

(a) State Documentation Report. The Director or their designee, on behalf of the Historic Preservation Commission, shall prepare a formal report at least 30 days prior to the Historic Preservation Commission holding a public hearing and making a recommendation on a designation application. Said report, a copy of which shall be provided to the Georgia State Historic Preservation Division of the State Department of

Natural Resources, shall be used to educate the community and to provide a permanent record of the designation, and shall consist of the following:

(1) A physical description,

(2) A statement of the historical, architectural, cultural or aesthetic significance,

(3) A map showing district boundaries and classification of individual properties therein in accordance with the criteria outlined in Section 19-2-6, or showing boundaries of individual historic landmarks,

(4) A statement justifying district or individual property boundaries; and

(5) Representative photographs.

(b) Investigations and Staff Findings.

(1) Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission and Governing Body, or summarized in a memorandum. Any such comments shall become public records.

(2) The Director may but shall not be required to investigate and write a report of findings regarding the designation application. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 19-2-6. Criteria to Consider for Designations

The Director, the Historic Preservation Commission, and Governing Body shall consider the following standards in considering any designation application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) Criteria for selection of historic district.

(1) A historic district is a geographically definable area, which contains structures, sites, works of art or a combination thereof, which:

i. Exhibits a significant historical, architectural, cultural or environmental character or value;

ii. Represents one or more periods, styles or types of architecture typical of one or more eras in the history; and

iii. Constitutes a visibly perceptible section of the municipality or county by reason of above.

(2) Boundaries. Boundaries of a historic district shall be shown on the Official Zoning Map of the City. Boundaries shall be included in the separate ordinances designating local districts; boundaries specified in legal notices shall coincide with the boundaries proposed for designation.

(3) Evaluation of properties within historic districts. Individual properties within districts proposed for designation shall be classified as:

i. Historic: An individual property that is more than 50 years old and contributes to the historic district;

ii. Non historic Contributing: An individual property less than 50 years old that possesses an architectural character which does not contribute nor detract from the district; or that is associated with an event or person of historic or cultural significance; or

iii. Noncontributing: An individual property that is less than 50 years old and does not contribute to the historical character of the district; or

iv. Vacant: An individual property that contains no buildings or other structures.

(b) Criteria for selection of a historic landmark.

(1) A historic landmark is an individual structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation for one or more of the reasons listed below:

i. It is an outstanding example of a structure representative of an era;

ii. It is one of the few remaining examples of a past architectural style;

iii. It is a site or structure associated with an event or person of historic or cultural significance; or

iv. It is a site of natural, cultural, or aesthetic value that is continuing to contribute to the historical or cultural development and heritage.

(c) Boundaries. Boundaries of a historic landmark shall be shown on the Official Zoning Map of the City.

(d) Evaluation of individual landmarks.

i. It is a historic or non-historic structure that is an outstanding example of a structure representative of an era;

ii. It is a historic or non-historic structure that is one of a few remaining examples of an architectural style characteristic of the community;

iii. It is a structure that is associated with an event or person of historic or cultural significance; or

iv. It is a site of natural, cultural, or aesthetic value that is continuing to contribute to the historical or cultural development and heritage.

Section 19-2-7. Investigations and Staff Findings

(a) Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission and the Governing Body, or summarized in a memorandum. Any such comments shall become public records.

(b) The Director may but shall not be required to investigate and write a report of findings regarding the application for designation. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 19-2-8. Historic Preservation Commission Hearing and Recommendation

(a) The Historic Preservation Commission shall convene a public hearing on the designation application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 18-9 of this ULDC.

(b) In rendering a decision on a designation application, the Historic Preservation Commission shall consider all information supplied by the applicant, the Director, and any information presented at the public

hearing of the Historic Preservation Commission. A recommendation to approve or deny the proposed ordinance for designation shall be made by the Historic Preservation Commission within 15 days following the public hearing. The Historic Preservation Commission may submit any additional report it deems appropriate. The recommendations of the Historic Preservation Commission shall have an advisory effect only and shall not be binding on the Governing Body.

Section 19-2-9. Notice of Public Hearing by Governing Body

(a) Notice in the Newspaper. At least 10 days but not more than 20 days prior to the public hearing before the Governing Body, notice shall be published at least three times in a newspaper of general circulation within the city. The published notice shall be prepared by the Community and Economic Development Department and shall include a general description of the location(s) to be considered for designation, total acreage, and the date, time, and place of the public hearing before the Governing Body.

(b) Notice to Owners and Occupants of Properties Proposed for Designation. At least 10 days but not more than 20 days prior to the public hearing before the Governing Body, the Community and Economic Development Department shall mail written notice of the public hearing to all owners and occupants of such properties in the form of an action letter stating the action taken by the Historic Preservation Commission. Notice sent via the United States Mail to the last-known owner and current occupant of the property shall constitute legal notification to the owner and occupant under this Chapter. The notice shall state the date, time, place and purpose of the hearing by the Governing Body.

Section 19-2-10. Action by Governing Body and the Designation Ordinance

(a) Following the receipt of the Historic Preservation Commission's recommendation and a public hearing, the Governing Body may approve the designation application, approve the application with conditions or amendments, deny the application, allow for withdrawal of the application, table the application, or refer the application for designation back to the Historic Preservation Commission for further consideration. The applicant or the Historic Preservation Commission may appeal the decision made by the Governing Body to adopt or reject the designation ordinance to a court of competent jurisdiction in accordance with Chapter 18-7.

(b) Any ordinance designating a district or individual landmark as historic shall:

(1) Include a description of boundaries for a proposed historic district and a list of properties located therein; or a description of the proposed individual historic landmark;

(2) Set forth the names of the owners of the designated properties;

(3) Require that a Certificate of Appropriateness be obtained from the Historic Preservation Commission prior to any exterior material change in appearance of the designated property; and

(4) Require that the district or landmark be shown on the Official Zoning Map.

Section 19-2-11. Duties of the Director Following Action by Governing Body

(a) Within 30 days immediately following the adoption of the ordinance for designation by the Governing Body, the Director shall notify the owner and occupants of each designated historic property, or individual landmark, of said designation. Said notice shall apprise the owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any work project involving an exterior material change in appearance of a structure or the site.

(b) The Director shall notify all necessary agencies within the City of the ordinance for designation.

Section 19-2-12. Withdrawal

(a) A designation application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Historic Preservation Commission is closed, without restriction on the refiling of said designation application.

(b) The application may be withdrawn administratively by the Director at any point during the public hearing process without restriction on the refiling of said designation application, whether or not in the form of a modified version.

Section 19-2-13. Criteria to Consider for Amendments or Renunciation of Designated Districts or Landmarks

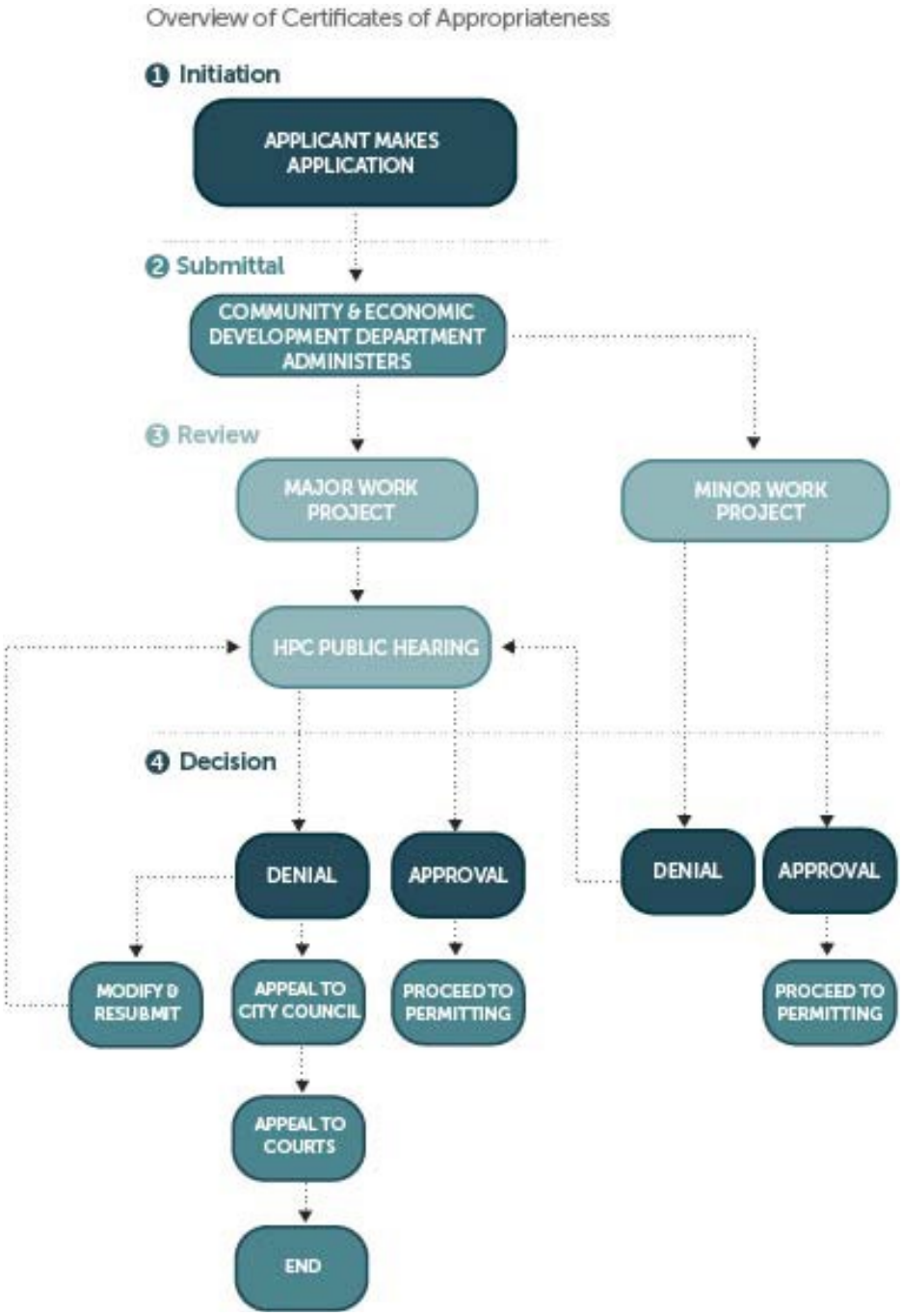
(a) Upon a written application of a party of interest and 30 day written notice to all necessary agencies, the Governing Body may amend or rescind the designation of a historic district or landmark following a public hearing and upon the finding that the district or landmark fails to comply with the designation criteria outlined in Section 19-2-6 of this Chapter.

(b) A request to amend or rescind the historic designation shall follow the procedures outlined in Section 19-2-2 of this Chapter for initiating an application for designation. The written application shall state why the designated district or landmark fails to comply with the designation criteria; the burden of proof shall be upon the applicant to show that the designation by the Governing Body fails to comply with the designation criteria. The applicant or Historic Preservation Commission may appeal the decision made by the Governing Body to amend or rescind the designation to a court of competent jurisdiction in the manner provided by law.

Section 19-2-14. Incorporation Clause

This Chapter is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Chapter. Where any provision of this Chapter conflicts with any provision of the Act, the Act shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

CHAPTER 19-3 CERTIFICATES OF APPROPRIATENESS



Section 19-3-1. Generally

(a) The purpose of this Chapter is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value.

(b) After the designation of a historic district or landmark, no material change in the exterior appearance of the structure or the site of such property shall be made, or be permitted to be made by the owner or occupant, until an application for a Certificate of Appropriateness has been submitted to the Community and Economic Development Department and approved by the Historic Preservation Commission for major work projects, or, in the case of minor work projects, by the Director.

Section 19-3-2. Initiation, Issuance and Technical Assistance

(a) Initiation.

(1) An application for a Certificate of Appropriateness for any property or properties locally designated as historic may be initiated by the Governing Body, Historic Preservation Commission, the owner or an occupant of the property, or some other person(s) given authorization by property owner to file said application. An application for a Certificate of Appropriateness shall be accompanied by such drawings, photographs or plans as required by Section 19-3-4, or as may be required by the Director or Historic Preservation Commission.

(2) Any applicant wishing to submit an application for a Certificate of Appropriateness request must schedule an appointment with the Community and Economic Development Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

(b) Issuance.

(1) Alterations and new construction. The Historic Preservation Commission, or the Director in the case of a minor work project, shall issue a Certificate of Appropriateness for alterations or new construction if it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property or the historic district.

(2) Demolition or relocation. No demolition or relocation shall be allowed prior to the issuance of a Certificate of Appropriateness. An application for a Certificate of Appropriateness involving demolition or relocation shall be accompanied by both pre- and post demolition (or relocation) plans for review by the Historic Preservation Commission.

(3) Interior alterations. In its review of applications for Certificates of Appropriateness, the Historic Preservation Commission, or the Director in the case of a minor work project, shall not consider the interior design or other use that has no effect on exterior architectural features. This Chapter does apply if the interior revisions materially impact the exterior architectural character.

(c) Technical Assistance. The Historic Preservation Commission may seek technical advice from the Community and Economic Development Department and from outside its members. The Director, in the case of minor work projects, may seek technical advice from the Historic Preservation Commission or outside agencies.

Section 19-3-3. Major Work Projects vs. Minor Work Projects

(a) Major and minor work projects shall be further clarified in the approved design and construction guidelines, but are generally defined as follows:

(1) Major work projects. A major work project involves a change in the appearance of a building, structure or site and is more substantial in nature than routine maintenance or a minor work project.

(2) Minor work projects. A minor work project involves a change that goes beyond ordinary maintenance but does not constitute a significant or character-altering change in the appearance of a building, structure or site.

(b) All Certificates of Appropriateness for major work projects shall be reviewed and approved by the Historic Preservation Commission as contained in this Chapter. All Certificates of Appropriateness for minor work projects shall be administratively reviewed and approved by the Director in accordance with the approved design and construction guidelines and this Ordinance. The Director shall refer minor work projects to the Historic Preservation Commission for review and approval if it is determined that the proposed work project involves alterations, additions, or removals that are substantial, or do not meet the adopted design and construction guidelines, and/or are of a precedent-setting nature.

(c) In those instances where there is no clear determination of what is considered a major work project versus what is considered a minor work project, as further defined in the approved design and construction guidelines, the Director shall have the authority to make the determination.

Section 19-3-4. Requirements for Submittal

Prior to submittal, applicants are encouraged to schedule a conference with the Community and Economic Development Department staff to review the application for completeness. All applications for Certificates of Appropriateness shall at a minimum consist of the following:

(a) Application form. A completed application. All applications shall be submitted to the Community and Economic Development Department on forms provided by the Department.

(b) Application fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body.

(c) Written description. A written narrative detailing the proposed work project, indicating the reason why the work project is being proposed. Include a description of existing site conditions, an explanation of how such conditions will be changed, an explanation of how the work will be performed, and a description of materials to be used.

(d) Copy of the recorded grant deed. A copy of the recorded grant deed confirming current ownership by applicant or person(s) giving authorization for the application to be made.

(e) Boundary survey/plat. A plat or boundary survey of the property or properties involved in the application.

(f) Photographs. Provide a clear set of 4x6 size recent photographs or high-resolution digital photographs of the existing building(s) and site. The photographs can be black and white, or color. Polaroids will NOT be accepted. Type the following information on a self-adhesive label and attach it to the back of each photograph or on a separate attachment: common name of property, street address and tax parcel number, date of photo, and view/direction.

(g) Architectural drawings.

(1) Additions and new construction. One copy of architectural drawings, sketches, or representative photographs of all elevations must be submitted. Architectural drawings stamped by a registered architect shall be required for an addition or new building exceeding 5,000 square feet in size.

(2) Signs. Provide a scaled, color rendering of new signage or proposed changes to existing signage, indicating the height and structural supports of the sign, the materials, and illumination. On the plat/boundary survey submitted, locate and label any proposed freestanding signage, indicating the distance from the right-of-way.

(3) Fences or walls. Provide a structural plan, sketch, or drawing for any fence or wall, indicating the height, color and materials to be used.

(h) Concept plan and landscape plan. One copy of a scaled size concept plan, indicating the location of new construction or site changes and existing mature and newly proposed trees and other landscaping features, shall be submitted with all applications for a Certificate of Appropriateness. Said plans must be stamped by a registered engineer, land surveyor, or landscape architect if the work project involves an addition or other new construction exceeding 5,000 square feet in size.

(i) Floor plan. One copy of a floor plan for any addition or new construction shall be submitted. Said floor plan must be stamped by a registered architect if the work project involves an addition or other new construction exceeding 5,000 square feet in size, demolition or relocation.

(j) Pre- and post demolition (relocation) plans. Applications involving demolition or relocation shall be accompanied by one copy of both pre- and post demolition (relocation) plans for review by the Historic Preservation Commission. Said plans must be stamped by a registered engineer or land surveyor.

(1) Pre-plans shall indicate the as-built conditions of the site, depicting the existing floor plan, trees and other landscaping, and other site features; and shall include architectural elevations stamped by a registered architect.

(2) Post-plans shall indicate the proposed structural and site changes, including the proposed floor plan, tree and landscape plan, and architectural elevations stamped by a registered architect.

(k) Documentation of earlier historic appearance. Provide written documentation, and drawings or photographs when available, of the earlier historic appearance of a building or structure, or site (Restoration projects only).

(l) Report from certified expert. A report from a certified arborist or forester confirming a mature tree proposed for removal is dead, diseased, or dying (only for a minor work project involving the removal of a dead, diseased or dying tree, or a tree that poses of public safety hazard).

Section 19-3-5. Notice of Public Hearing by the Historic Preservation Commission

Before the Historic Preservation Commission may take final action on a proposed Certificate of Appropriateness application, the Historic Preservation Commission shall hold a public hearing on the proposal. At least 15 days prior to the review of such applications, notice of the hearing shall be given in the following manner:

(a) Published in the local newspaper. The published newspaper notice shall be prepared by the Department of Community and Economic Development and shall include the location of the property, the nature of the proposed work project, and the date, time, and place of the public hearing before the Historic Preservation Commission.

(b) Notice sign. Written upon a notice sign which is to be placed on the subject property by the City at least 15 days prior to the public hearing. The notice sign, which shall state the date, time and place of the public hearing before the Historic Preservation Commission, shall be placed in a conspicuous location along each street frontage of the property for which the Certificate of Appropriateness has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property.

(c) Notice letters. Written notice shall be mailed to the owner and occupant of the subject property and to owners of property or properties located within the locally designated district, or to the owners of property adjoining a locally designated landmark. The notice shall state the date, time, place and purpose of the hearing by the Historic Preservation Commission.

Section 19-3-6. Investigations and Staff Findings

(a) Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely

manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission, and the Governing Body in the case of an appeal, or summarized in a memorandum. Any such comments shall become public records.

(b) The Director may but shall not be required to investigate and write a report of findings regarding the application for a Certificate of Appropriateness. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 19-3-7. Criteria to Consider for Certificates of Appropriateness

(a) The Historic Preservation Commission shall issue a Certificate of Appropriateness for alterations or new construction if the proposed plans and specifications conform in design, building materials, placement and orientation, and landscaping as specified in the adopted design and construction guidelines and if the process and procedures specified in this Chapter are complied with. In making this determination, the Historic Preservation Commission shall consider the following, in addition to any other pertinent factors:

(1) The historical, environmental and architectural value and significance;

(2) The architectural style; general design and arrangement, texture and material of the architectural features involved; and

(3) The relationship thereof to the exterior architectural style and pertinent features of other structures located in the immediate vicinity.

(b) No demolition or relocation shall be allowed prior to the issuance of a Certificate of Appropriateness, and the Historic Preservation Commission shall not grant Certificates of Appropriateness for demolition or relocation without reviewing both the pre- and post demolition or relocation plans as part of the application. Upon receipt of an application for a Certificate of Appropriateness for demolition or relocation, the Historic Preservation Commission shall apply the procedures set forth in this Chapter to determine whether to deny the application or issue a Certificate of Appropriateness for demolition or relocation.

Section 19-3-8. Undue Hardship

Where, by reason of unusual circumstances, the strict application of any provision of this Article or other article related to the Historic Preservation Overlay Zone would result in the exceptional practical difficulty or undue hardship upon any owner of a specific designated property, the Historic Preservation Commission has the power to vary strict adherence to the provisions, so as to relieve such difficulty or hardship, provided that such variances or interpretations do not compromise the architectural or historical integrity of the property. An undue hardship shall not be a situation of the person's own making. An undue hardship may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant or owner, nor as a way to gain an advantage or interest over similarly designated properties.

(a) To initiate a request for consideration of an undue hardship, the following shall be attached to an application for a Certificate of Appropriateness:

(1) Written narrative. A written narrative explaining the purpose and intent of the request for consideration of an undue hardship, detailing the undue hardship.

(2) Financial Analysis. If the undue hardship involves economic reasons, a financial analysis indicating how compliance with the provisions of this Article and other articles related to the Historic Preservation Overlay imposes an undue economic hardship.

(3) Other. The Historic Preservation Commission shall be authorized to require additional supporting information necessary to consider an undue hardship.

(b) Historic Preservation Commission Action:

(1) An undue hardship may be granted in whole or in part, or with such reasonable stipulations and conditions, in such an individual case of unnecessary hardship upon a finding by the Historic Preservation Commission that strict compliance with such provision will result in an exceptional practical difficulty or undue hardship to the property or owner that is substantially unwarranted by the protection of the public health, safety or general welfare, and the need for consistency among all properties similarly designated.

(2) In no case shall an undue hardship variance be granted by the Historic Preservation Commission for a condition created by the applicant, including the result of an unwise investment decision or real estate transaction

(c) Effect and Duration of Validity:

(1) Acceptance of an undue hardship as part of a Certificate of Appropriateness shall be in full force and effect upon approval of the COA by the Historic Preservation Commission and shall be effective for a period of 18 months. If no action is taken by the applicant to implement the purpose of the COA application within 18 months from the date of approval, said acceptance of the undue hardship shall become null and void.

(2) An undue hardship shall be specific to the Certificate of Appropriateness request made by the current applicant or property owner and shall not stay with the property, as is the case for designation.

Section 19-3-9. Historic Preservation Commission Hearing and Action

The Historic Preservation Commission shall hold a public hearing and act upon all proposed Certificates of Appropriateness referred to it (i.e., excluding minor work projects) within 45 days of receipt of a complete application. The property owner or applicant shall have an opportunity to speak at the public hearing.

(a) Historic Preservation Commission action. The Historic Preservation Commission shall approve the Certificate of Appropriateness as proposed, approve the application with modifications or condition, or deny the request.

(1) Approval. The Historic Preservation Commission shall approve, or approve with modifications or conditions, an application and issue a Certificate of Appropriateness if it finds that the proposed material changes in the exterior appearance of the building, structure or site would not adversely affect the historical, architectural, aesthetic, cultural or environmental character or value of the historic district or individual landmark.

(2) Denial. The Historic Preservation Commission shall deny a Certificate of Appropriateness if it finds that the proposed material changes in exterior appearance of the building, structure or site would adversely affect the historical, architectural, aesthetic, cultural or environmental character or value of the historic district or individual landmark.

(b) Deadline for action. Failure of the Historic Preservation Commission to hold a public hearing and act upon the request within the said 45 days shall constitute approval of the Certificate of Appropriateness.

If the Historic Preservation Commission denies an application for a Certificate of Appropriateness, the Historic Preservation Commission shall state on the public record its reasons for denial. The Director shall mail to the applicant and/or property owner a written action letter, stating the Historic Preservation Commission's reasons for denial; as well as keep a record of such action and reasons. If the Historic Preservation Commission denies the request for a Certificate of Appropriateness, no building permit shall be issued in those cases in which an exterior material change would require the issuance of a building permit.

Section 19-3-10. Conformance with Certificate of Appropriateness

(a) All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work performed is not in accordance with such certificate, the appropriate City department on behalf of the Historic Preservation Commission shall issue a cease and desist order and all work shall cease.

(b) The Governing Body, or the Historic Preservation Commission upon authorization by the Governing Body, shall be authorized to institute appropriate action in a court of competent jurisdiction in order to: prevent any exterior material change in appearance of a designated historic district or landmark, except those changes made in compliance with the provisions and authority of this Chapter, and to prevent any illegal act with respect to such historic district or landmark.

Section 19-3-11. Notice of Approval and Duration of Validity

(a) Notice of the issuance or denial of a Certificate of Appropriateness shall be sent by United States mail to the owner, occupant and/or applicant. Such notice of approval and the official Certificate of Appropriateness shall be printed on orange colored paper and attached to the building permit, a copy of which shall remain on site during work.

(b) A Certificate of Appropriateness shall expire unless construction is commenced within 6 months of the date of issuance. Certificates of Appropriateness shall be issued for a period of 18 months and are renewable upon a showing of cause.

Section 19-3-12. Appeals

(a) Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the City Council. The Governing Body may approve, modify and approve, or reject the determination made by the Historic Preservation Commission if the Governing Body finds that the Historic Preservation Commission abused its discretion in reaching its decision, or finds that the determination is unfounded by the provisions of this Ordinance and the adopted design and construction guidelines, and/or are contrary to applicable law.

(b) An application for appeal must be filed within 15 days after notification is sent of the Historic Preservation Commission's determination. The application for appeal shall include the reasons for why the determination or decision is unsupported by the provisions of this Ordinance, the adopted design and construction guidelines, and/or are contrary to applicable law.

(a) Appeals from a decision of the Governing Body shall be made pursuant to this article may be taken to the superior court in the manner provided by law for appeals from a conviction for municipal ordinance violations.

Section 19-3-13. Withdrawal

(a) An application for Certificate of Appropriateness may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Historic Preservation Commission is closed without restriction on the refiling of said designation application.

(b) The application may be withdrawn administratively by the Director at any point during the public hearing process without restriction on the refiling of said Certificate of Appropriateness application, whether or not in the form of a modified version.

Section 19-3-14. Exemptions

(a) Ordinary maintenance. Nothing in this Article 9-19 shall be construed to prevent the ordinary maintenance or repair, as defined in Section 9-19-1-1, of any exterior architectural feature in or on a historic property, provided that such maintenance or repair does not involve a material change in design, material, or outer appearance thereof; nor shall this Article prevent any property owner from making any use of their property not prohibited by this ULDC or any other laws or regulations.

(b) Department of Transportation. The Georgia Department of Transportation and any of its contractors, including the City of Gainesville and Hall County in performing work funded by the Georgia Department of Transportation, are exempt from the provisions of this Chapter, as provided by the "Georgia Historic Preservation Act" (O.C.G.A. Sec. 44-10-27G).

(c) City of Gainesville. The City of Gainesville is exempt from the requirement of obtaining Certificates of Appropriateness; provided that the Governing Body shall notify the Historic Preservation Commission 45 days prior to an activity that would otherwise require a Certificate of Appropriateness and allow the Historic Preservation Commission an opportunity to comment.

Section 19-3-15. Incorporation Clause

This Chapter is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Chapter. Where any provision of this Chapter is in conflict with any provision of the Act, the Act shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

CHAPTER 19-4 UNDUE HARDSHIPS



Section 19-4-1. Generally

(a) Where, by reason of unusual circumstances, the strict application of any provision of this Article or other article related to the Historic Preservation Overlay Zone would result in the exceptional practical difficulty or undue hardship upon any owner of a specific designated property, the Historic Preservation Commission has the power to vary strict adherence to the provisions, so as to relieve such difficulty or hardship, provided that such variances or interpretations do not compromise the architectural or historical integrity of the property.

(b) An undue hardship shall not be a situation of the person's own making. An undue hardship may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant or owner, nor to gain any advantage or interest over similarly designated properties.

Section 19-4-2. Initiation

(a) An application for an undue hardship for any property located within a designated district, or for any designated landmark, may be initiated by the Governing Body, Historic Preservation Commission, the owner or an occupant of the property, or some other person(s) given authorization by property owner to file said application. An application for an undue hardship variance shall be accompanied by such documentation as required by Section 19-3-4, or as may be required by the Director or Historic Preservation Commission.

(b) Any applicant wishing to submit an application for an undue hardship must schedule an appointment with the Economic and Community Development Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 19-4-3. Requirements for Submittal

(a) To initiate an application for undue hardship, an application must be submitted to the Planning Department which shall include at minimum the following:

(1) Application form. A completed application. All applications shall be submitted to the Economic and Community and Development Department on forms provided by the Department.

(2) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body.

(3) Written narrative. A written narrative explaining the purpose and intent of the application, detailing the undue hardship. If the undue hardship involves economic reasons, a financial analysis indicating how compliance with the provisions of this Article and other articles related to the Historic Preservation Overlay Zone imposes an undue economic hardship.

(b) The Historic Preservation Commission, in reviewing an application for undue hardship, shall also be authorized to require any additional supporting information necessary to review an application for undue hardship. These may include but are not limited to a boundary survey/plat, architectural renderings, or a concept plan or an as-built survey.

Section 19-4-4. Notice of Public Hearing by the Historic Preservation Commission

Before the Historic Preservation Commission may take final action on an application for undue hardship, the Historic Preservation Commission shall consider the request as a part of the Certificate of Appropriateness filed in accordance with this Chapter 9-19-3.

Section 19-4-5. Historic Preservation Commission Hearing and Action

(a) An undue hardship may be granted in whole or in part, or with conditions, in such an individual case of unnecessary hardship upon a finding by the Historic Preservation Commission that strict compliance with such provision will result in an exceptional practical difficulty or 9hardship to the property or owner that is substantially unwarranted by the protection of the public health, safety or general welfare, and the need for consistency among all properties similarly designated and of:

(1) A similar historical, environmental and architectural value and significance;

(2) Architectural style, general design and arrangement, texture and material of the architectural features involved; and

(3) The relationship thereof to the exterior architectural style and pertinent features of other structures located in the designated district or upon the designated landmark.

(b) In no case shall an undue hardship variance be granted by the Historic Preservation Commission for a condition created by the applicant, including the result of an unwise investment decision or real estate transaction.

(c) The Historic Preservation Commission may impose such reasonable and additional stipulations and conditions as will in its judgement best fulfill the purpose of this Article 9-19.

Section 19-4-6. Effect and Duration of Validity

(a) Approval of an undue hardship on a designated property located within the City shall be in full force and effect upon its approval by the Historic Preservation Commission and shall be effective for a period of 18 months. If no action is taken by the applicant to implement the purpose of the application within 18 months from the date of approval, said approval shall become null and void.

(b) An undue hardship shall be specific to the Certificate of Appropriateness with undue hardship request made by the current applicant or property owner and shall not stay with the property, as is the case for designation.

Section 19-4-7. Appeals

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of an undue hardship may appeal such determination to Governing Body in accordance with Section 19-3-12.

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CHAPTER 20-1 ADMINISTRATION

Section 20-1-1. Fees

From time to time, the governing body may adopt fees for the issuance of permits, the submission of applications, the provision of inspections, and such other activities and authorizations as regulated by this Code.

Section 20-1-2. Right to Inspect

No person shall refuse entry or access to any authorized representative or agent of the city, inspections personnel of the city or county, the state soil and water conservation commission, the Hall County Soil and Water Conservation District, or the state environmental protection division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

Section 20-1-3. Director of Community and Economic Development

The Director of Community and Economic development or their designee shall have all the necessary powers explicitly provided or reasonably implied in connection with the administration of this Code, including but not limited to those enumerated in this section. Where such provisions indicate the Director of Community and Economic Development has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Schedules. To adopt schedules of dates, times and places as appropriate and necessary for the processing of applications established by this Code.

(b) Administrative procedures and forms. To prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this Code, and to implement the provisions of this Code.

(c) Approval of preliminary and final plats. To review and approve preliminary plats and final plats as also specifically provided in Section 11-1-2.

(d) Land development plans. To review and approve or deny land development plans and issue or refuse to issue land development permits in accordance with Chapter 11-6.

(e) Home occupations. To review and approve home occupations as specifically provided in Section 9-10-9.

(f) Special temporary outdoor events. To review and authorize, and to issue permits for special temporary outdoor events as provided in Section 9-11-3.

(g) Nonconforming situations. To compel an applicant to completely correct or reduce the noncompliance of nonconforming situations, pursuant to authority and subject to the limitations of Chapter 10-4.

(h) Modify and extend application requirements. To waive certain requirements, and to require additional information be submitted, for applications submitted pursuant to Article 18 and Article 19.

(i) Public notices. To provide notices or require the notice of applications submitted pursuant to Article 18 and Article 19.

(j) Recommendations on applications. To provide recommendations on annexation, rezoning and special use applications to the planning and appeals board and governing body, as may be appropriate, and as authorized in Article 18. Also, the director may provide findings or recommendations regarding zoning variances to the planning and appeals board.

(k) Certificates of appropriateness. To review, approve, and issue certificates of appropriateness for minor work projects and to provide findings and if appropriate recommendations to the historic preservation whether to issue certificates of appropriateness for major work projects pursuant to Article 19.

(l) Permits for tree removal. To issue permits when required for the removal of certain trees as specified in Section 13-5-7.

(m) Secretary, Planning and Appeals Board. To serve as secretary to the Planning and Appeals Board, as provided in Section 17-1-9, or to appoint a planning commission clerk or other designee to serve in such capacity.

(n) Inspections and investigations. To conduct such investigations as he or she may reasonably deem necessary to assure or compel compliance with the requirements and provisions of this Code, even if such responsibilities are delegated to code enforcement officers or other administrative or enforcement officers of the city.

(o) Enter property. To enter at reasonable times upon any property for purposes of investigation, inspection and enforcement.

(p) Enforcement. To enforce any and all provisions of this Code.

(q) Delegation. To delegate the functions and responsibilities of the director's position to other personnel in the community and economic development department.

(r) Interpretation. To interpret the provisions of this Code, as provided in Section 2-1-1. Also, when the administrative or enforcement responsibilities of this article are in question, the Director of Community and Economic Development shall make such interpretation.

(s) Maintain official zoning maps and overlay district maps. To maintain and update the official zoning map of the city as provided in Section 1-4-2.

(t) Determine zoning boundaries. To determine the location of the boundary of zoning districts and overlay zones when the exact location cannot be determined, as provided in Section 1-4-3.

(u) Administrative variances. To review and approve applications for administrative variances, as provided under Chapter 20-3 and as specifically provided in any other chapters or sections of this code not specifically referenced in said chapter.

Section 20-1-4. Director of Public Works

The Director of Public Works shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to said director, including but not limited to those enumerated in this section. Where such provisions indicate the Director of Public Works has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Inspection. To periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with all applicable provisions of this Code.

(b) Delegation. To delegate the functions and responsibilities to other personnel in the public works department.

(c) Land development plans. To review land development plans and review streets and non-water resources related public improvements and recommendations for acceptance of public improvements by the Governing Body as provided in Article 11.

(d) Promulgation of additional technical standards. To promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to streets, driveways, curb cuts related to flow of traffic, and parking lots, as specifically provided in Section 11-1-2.

(e) Traffic impact analyses. To administer the provisions of Chapter 18-4 regarding the technical review of traffic impact analyses, and to promulgate and require the use of additional technical specifications for conducting traffic impact analyses, as provided in Section 18-4-12.

(f) Enforcement. To enforce those provisions of this Code that relate to the primary activities of the Director of Public Works.

(g) Airport zones. To direct a property owner to that a tree or structure that violates airport overlay zone requirements be removed or modified to the extent necessary to comply with the applicable height limit, as provided in Section 7-1-5; and to review and recommend variances with regard to airport overlay zone requirements as provided in Section 7-1-11.

(h) Administrative variances. To review and approve applications for administrative variances, pursuant to Chapter 20-3, but only as explicitly permitted in this Code.

Section 20-1-5. Director of Water Resources

The Director of Water Resources shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to said director, including but not limited to those enumerated in this section. Where such provisions indicate the Director of Water Resources has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Approval of water, wastewater and stormwater management facilities. To review and approve the design of water, wastewater and stormwater management facilities for subdivisions and land developments.

(b) Inspection. To periodically inspect the sites of water, wastewater and stormwater management facilities for which permits have been issued to determine if the activities are being conducted in accordance with all applicable provisions of this Code.

(c) Delegation. To delegate the functions and responsibilities to other personnel in the Department of Water Resources.

(d) Promulgation of additional technical standards. The Director of Water Resources is authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to water and sanitary sewer systems and stormwater management facilities.

(e) Enforcement. To enforce those provisions of this Code that relate to the primary activities of the Director of Water Resources.

(f) Flood hazard area regulations. To fulfill the functions and duties assigned under Chapter 12-2 relative to flood plain management regulations.

Section 20-1-6. Building Official

The Building Official shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to the Building Official, including but not limited to the following:

(a) Building permits and certificates of occupancy. To review, approve, and issue building permits and certificates of occupancy, and to administer all provisions of Article 16.

(b) Delegation. To delegate the functions and responsibilities to one or more building inspectors.

(c) Enforcement. To enforce those provisions of this Code that relate to the primary activities of the Building Official.

CHAPTER 20-2 ENFORCEMENT

Section 20-2-1. Complaints

Whenever a violation of this Code occurs or is alleged to have occurred, any person may file a complaint with the designated code enforcement officer of the city. Complaints may be submitted by phone, electronically or in person, and may be anonymous. Such complaint shall state clearly and fully the causes and bases of the complaint. The designated code enforcement officer shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce this Code.

Section 20-2-2. Enforcement Responsibilities Generally

(a) If, through inspection, it is deemed that a person engaged in land-disturbing, development, building construction, or use or other activities has failed to comply with any provision of this Code, the city through the appropriate official as provided in this article shall enforce the provisions of this Code as more fully set forth in this chapter.

(b) The Director of Community and Economic Development, the Director of Public Works, the Director of Water Resources, and the Building Official shall have responsibilities and the authority to enforce the provisions of this Code as provided in this chapter. Code enforcement officers, land development inspectors, planners, Department of Water Resources inspectors, and building inspectors, if delegated such responsibilities, shall have such authority and responsibility to enforce the provisions of this Code assigned to the officer delegating such authority.

Section 20-2-3. Enforcement Responsibilities Specifically

Without limiting the generality of this chapter, enforcement responsibilities are logically divided into different activities regulated under this Code. It is the intent of this chapter to assign enforcement responsibilities to the administrative personnel who has primary review responsibility for that particular activity, but that intent shall not preclude one or more administrative officers assigned enforcement responsibilities by this article from enforcing a provision of this Code that is not a primary review responsibility.

Section 20-2-4. Enforcement Techniques.

Administrative officers shall have at their disposal the enforcement techniques provided in this Chapter, subject to the limitations specified in this Chapter.

Section 20-2-5. Written Notice to Comply

(a) When violations are discovered, a written notice to comply shall be served upon the owner of the property, his authorized agent or the person or persons in charge of the activity on the property. Each of these persons shall be assumed to be individually responsible for compliance with this Code.

(b) The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the violating activity fails to comply within the time specified, he shall be deemed in violation of this Code.

Section 20-2-6. Stop Work Order

(a) Upon notice from the city, work on any project that is being done contrary to the provisions of this Code or in a dangerous or unsafe manner, shall be immediately stopped.

(b) Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where in the opinion of the Director of Community and Economic Development,

the Director of Public Works, the Director of Water Resources, or Building Official an emergency exists (whichever has enforcement responsibilities), no written notice shall be required.

(c) Such stop work order may be lifted at such time as the enforcing officer is satisfied that a good faith effort is being made to comply with applicable provisions of this Code. Nothing shall prevent said officer from reissuing a stop work order where warranted.

Section 20-2-7. Injunction

The City through authorized personnel may issue an injunction to cause a violation of this Code to cease or to be corrected.

Section 20-2-8. Revocation of Permit or License

(a) The city may suspend or invalidate existing land development permits and building permits in order to enforce the provisions of this Code.

(b) The city is authorized and directed to deny and withhold permits or permissions on any new project or application pursuant to this Code where the applicant, applicant's business or agent has failed or refused to comply with this Code.

(c) The city may revoke any Certificate of Occupancy, Home Office Affidavit, Business or Occupational Tax Certificate, work permit, or other authorization for the unlawful conduct of any activities within the jurisdictional boundaries of the city.

Section 20-2-9. Bond Forfeiture

The city may deem that a person required to post a bond (e.g., performance bond or landscape bond) pursuant to this Code is in violation of the provisions of this Code and may find a violator of this Code to have forfeited such bond. The city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to bring the unlawful activity into compliance.

Section 20-2-10. Withholding of Utility Service

The city may withhold municipal utility services or request or direct an applicable public utility service provider to withhold utility service to any property on which a violation is alleged to have occurred.

Section 20-2-11. Refusal of Plat Recording

The City may request or direct the Clerk of Superior Court to refuse or deny the recording of a final subdivision plat that is found to be in violation of this Code.

Section 20-2-12. Citation

The City shall have authority to issue citations and to prosecute violations before a court of competent jurisdiction.

Section 20-2-13. Other Necessary Actions

Administrative officers with authority and responsibility for enforcement as described in this Article shall be authorized to take any other appropriate or necessary action to ensure compliance with or to prevent violation of the provisions of this Code.

Section 20-2-14. Penalties for Violation

Any person found guilty of violating any provision of this Code shall, upon conviction by the Municipal Court of the City, be punished as provided in Section 1-1-7 of the City Code. Violations of this Code may be tried upon citation with or without a prosecuting attorney as well as upon accusations.

CHAPTER 20-3 ADMINISTRATIVE VARIANCES

Section 20-3-1. Authority

The Director of Community and Economic Development shall have the authority to grant or deny administrative variances from certain provisions of this Code as enumerated in this chapter where, in his or her opinion, the intent of this Code can be achieved and equal performance obtained by granting an administrative variance.

Section 20-3-2. Administrative Variances by the Director of Community and Economic Development

In addition to any other administrative variances specifically authorized by this Code, the following provisions of this Code may be administratively varied by the Director of Community and Economic Development, subject to the specific limitations of this section. Where this section omits specific reference to the Director of Community and Economic Development's authority to grant an administrative variance, and such authority is clearly evident in a provision of this Code, the omission from this section shall not be construed as limiting the director's authority.

(a) Front building setback for a principal building, reduction not to exceed 7 feet.

(b) Side building setback for a principal building, reduction not to exceed 3 feet.

(c) Rear building setback for a principal building, reduction not to exceed 5 feet.

(d) Setback for an accessory building, reduction not to exceed 2 feet.

(e) Maximum building coverage, maximum impervious surface coverage, not to exceed 5% above the applicable maximum. This provision shall not apply in the North Oconee Water Supply Watershed Overlay.

(f) Maximum height of a building, not to exceed 5 feet above the applicable maximum. This provision shall not apply to height limits imposed in the airport overlay zones.

(g) Minimum open space, reduction of not more than 10% of total minimum required landscaped open space. For example, a minimum open space requirement of 20% of the lot cannot be reduced administratively below 10% by the Director.

(h) Landscape strip minimum widths, reduction not to exceed 20% of the minimum required width. For example, if the minimum landscape strip width is 10 feet, the Director may authorize a reduction to no less than 8 feet. The Director may also authorize an average width of landscape strip rather than a minimum.

(i) The required number of parking spaces, reduction not to exceed 20% below the minimum required, and addition not to exceed 10% above the maximum permitted number of spaces.

Section 20-3-3. Administrative Variances by the Director of Public Works and/or the Director of Water Resources

This Code authorizes the Director of Public Works and the Director of Water Resources in certain instances to vary or waive requirements (as distinguished from design variances as specified in Article 11). In such instances, the Director of Public Works or Director of Water Resources may exercise such authority upon application for such an administrative variance to the Director of Community and Economic Development, which shall be forwarded to the Director of Public Works or Director of Water Resources for review and approval, conditional approval, or disapproval, in accordance with the provisions of this chapter.

Section 20-3-4. Requirements for Administrative Variance Applications

To initiate an application for administrative variance, an application must be submitted to the Department of Community and Economic Development which shall include the following:

(a) A completed application form supplied by the department and a statement of hardship form included with application form must be completed by the applicant.

(b) A written narrative explaining and justifying the request;

(c) A to-scale plat, boundary survey, or as built survey in electronic format.

(d) Concept plan or home location plan in electronic format.

(e) Architectural rendering or building elevation in electronic format.

The Department of Community and Economic Development, in reviewing an application, shall also be authorized to require any additional supporting information necessary to review an administrative variance on the record necessary to resolve the request for relief.

Section 20-3-5. Review for Completeness

The Department of Community and Economic Development shall review the application for completeness within 10 days of the published closing date. Incomplete or improper applications will be returned to the applicant.

Section 20-3-6. Criteria for Approval of Administrative Variances

In acting upon applications for administrative variances, the Director of Community and Economic Development, the Director of Public Works, or the Director of Water Resources shall consider whether one or more of the following condition(s) exist to justify or provide grounds for disapproval of said request:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, location within or near environmentally sensitive area, or topography;

(b) The application of this Code to this particular piece of property would create an unnecessary hardship; and

(c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

Section 20-3-7. Decision

In rendering a decision on an administrative variance application, the Director of Community and Economic Development, the Director of Public Works, or the Director of Water Resources shall consider all information supplied by the applicant. Within 21 calendar days of receipt of a completed application for administrative variance, the director may:

(a) Approve the application as submitted;

(b) Approve the application with conditions; or

(c) Deny the application.

Section 20-3-8. Notice of Action

Notice of the action on an administrative variance may be emailed or sent by United States mail to the applicant. If the application for administrative variance is denied, the reasons for denial shall be stated in the notice of action.

Section 20-3-9. Finality and Variance Remedy

The action of the Director of Community and Economic Development on the administrative variance application (or, if they have jurisdiction, the Director of Public Works or Director of Water Resources) shall be final and may not be appealed as an administrative decision pursuant to Chapter 18-7; provided, however, that any person who is denied an application for administrative variance pursuant to this Chapter may file an application for variance with the Planning and Appeals Board pursuant to Chapter 18-6.

Section 20-3-10. Records

The Director of Community and Economic Development shall keep public records of all administrative variances applied for and granted pursuant to this chapter.