

AN ORDINANCE TO AMEND CHAPTER 27, ZONING, OF THE CODE OF THE CITY OF BROOKHAVEN

WHEREAS, Section 1.03(b)(25) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to provide comprehensive planning and regulation through zoning and subdivision requirements to ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, the Mayor and City Council find that amendments to the zoning regulations of the City are necessary.

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

SECTION I:

The identified sections of Chapter 27, Zoning, are amended to read as shown in the attached mark-up.

SECTION II:

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION III:

Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

SECTION IV:

Effective Date: This ordinance shall be effective immediately upon adoption.

SO ORDAINED, this 28th day of May 2019.

Approved by:

Approved as to Form and Content

John Arthur Ernst Jr., Mayor

Diane LaRoss, Assistant City Attorney

Attest:

Susan Hiott, City Clerk

SEAL

Article II Residential Districts

Division 2-2 Detached Houses | Sec. 27.27 Lot and Building Regulations—RS Districts

DIVISION 2-2. DETACHED HOUSES

Sec. 27.27. Lot and Building Regulations—RS Districts

Detached houses are allowed in all RS districts, subject to compliance with the lot and building regulations of [Table 2-3](#) (see also [Figure 2-1](#)).

TABLE 2-3 — DETACHED HOUSES IN RS DISTRICTS						
Regulation	RS-100	RS-85	RS-75	RS-60	RS-50	
a. Lot						
Minimum Lot Area (square feet)	15,000	12,000	10,000	8,000	6,000	
q Minimum Lot Width & Frontage (feet)	100[1]	85[1]	75[1]	60[1]	50[1]	
w Maximum Impervious Coverage (%)	35	35	35	35	35	
b. Building Siting						
Minimum Principal Building Setbacks (feet)						
e Front Street	35[2][3]	35[2][3]	30[2][3]	30[2][3]	5[4]	
r Side Street	25[3]	25[3]	20[3]	20 7.5[3] [4]	5[4]	
t Interior Side	10	8.5	7.5	7.5	5	
y Rear	40	40	40	40	30	
Minimum Accessory Building & Accessory Structure Setbacks (feet)						
Front Street	— — — — Permitted in rear yard only — — — —					
r Side Street	35	35	20	15[4]	5[2][4]	
t Interior Side	10	10	10	10	7.5	
u Rear	10[5]	10[5]	10[5]	10[5]	10[5]	
c. Maximum Building Height						
i Principal Building (feet)	40	40	40	40	40	
Accessory Building (feet)	20[6]	20[6]	20[6]	20[6]	20[6]	
d. Garages						
Garage Configuration	— — — — See Division 2-9 — — — —					

- [1] Lots fronting on the bulb of a cul-de-sac shall have at least 35 feet of frontage and be at least 50 feet in width.
- [2] Contextual setbacks may be used for residential infill development. See [Sec. 27.426](#).
- [3] Plus 15 feet if abutting arterial street.
- [4] Street-facing garage entries shall be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.
- [5] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.
- [6] Or height of principal building, whichever is less.

Article II Residential Districts

Division 2-2 Detached Houses | Sec. 27.28 Lot and Building Regulations—R3, RSA and RM Districts

Sec. 27.28. Lot and Building Regulations—R3, RSA and RM Districts

Detached houses are allowed in all R3, RSA and RM districts, subject to compliance with the lot and building regulations of [Table 2-4](#) (see also [Figure 2-2](#)).

TABLE 2-4 — DETACHED HOUSES IN RSA AND RM DISTRICTS

Regulation		R3 and RSA	RM
a. Lot			
	Minimum Lot Area (square feet)	6,000	6,000
q	Minimum Lot Width & Frontage (feet)	50[1]	50[1]
w	Maximum Impervious Coverage (%)	35	35
b. Building Siting			
Minimum Principal Building Setbacks (feet)			
e	Front Street	5[3][4]	30[2][3]
r	Side Street	15[3][4]	15[3][4]
t	Interior Side	5	7.5
y	Rear	30	30
Minimum Accessory Building & Accessory Structure Setbacks (feet)			
	Front Street	— — — — Permitted in rear yard only — — — —	
r	Side Street	15[3][4]	15[3][4]
t	Interior Side	10	10
u	Rear	10[5]	10[5]
c. Maximum Building Height			
i	Principal Building (feet)	40	40
	Accessory Building (feet)	20[6]	20[6]
d. Garages			
	Garage Configuration	— — — — See Division 2-9 — — — —	

- [1] Lots fronting on the bulb of a cul-de-sac shall have at least 35 feet of frontage and be at least ~~60~~ 50 feet in width.
- [2] Contextual setbacks may be used for residential infill development. See [Sec. 27.426](#).
- [3] Plus 15 feet if abutting arterial street.
- [4] Street-facing garage entries shall be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.
- [5] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.
- [6] Or height of principal building, whichever is less.

Article II Residential Districts

Division 2-3 Attached Houses | Sec. 27.29 Lot and Building Regulations—RSA and RM Districts

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DIVISION 2-3. ATTACHED HOUSES

Sec. 27.29. Lot and Building Regulations—RSA and RM Districts

Attached houses are allowed in all RSA and RM districts, subject to compliance with the lot and building regulations of [Table 2-5](#) (see also [Figure 2-3](#)).

TABLE 2-5—ATTACHED HOUSES IN RSA AND RM DISTRICTS				
Regulation		RSA-5	RSA-8	RSA-18 and RM
a. Site/Lot				
	Minimum Site Area (square feet)	6,000	6,000	6,000
q	Minimum Site Width & Street Frontage (feet)	100	100	60
	Minimum Lot Width (feet)	20	20	20
w	Maximum Impervious Coverage (%)	50	50	80
	Maximum Density (dwelling units per acre)	5	8	18
b. Building Siting				
Minimum Principal Building Setbacks (feet)				
e	Front Street	5[1]	5[1]	5[1]
r	Side Street	15[1]	15[1]	15[1]
t	Interior Side (applies to end units only)	7.5	7.5	7.5
y	Rear	30	30	30
u	Maximum Building Width (no. of units)	8	8	RSA = 8 / RM = 12
Minimum Accessory Building & Accessory Structure Setbacks (feet)				
	Front Street	— — Permitted in rear yard only — —		
r	Side Street	15[1]	15[1]	15[1]
t	Interior Side	10	10	5
	Rear	10[2]	10[2]	10[2]
c. Maximum Building Height				
o	Principal Building (feet)	40	40	40
	Accessory Building (feet)	20[3]	20[3]	20[3]
d. Street Facades				
e. Parking and Garages				
1#	Surface Parking Location	— — Permitted in rear yard only — —		
	Garage Configuration	— — — — See Division 2-9 — — — —		
f. Transition Buffers (See Division 9-2)				
	Minimum Buffer Depth Abutting RS-Zoned Lot (feet)	20	20	20

[1] Street-facing garage entries shall be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.

[2] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.

[3] Or height of principal building, whichever is less.

Article II Residential Districts

Division 2-4 Two-Flats and Three-Flats | Sec. 27.30 Lot and Building Regulations—R3, RSA and RM Districts

DIVISION 2-4. TWO-FLATS AND THREE-FLATS

Sec. 27.30. Lot and Building Regulations—R3, RSA and RM Districts

Two-flats and three-flats are allowed in all R3, RSA and RM districts, subject to compliance with the lot and building regulations of [Table 2-6](#) (see also [Figure 2-4](#)).

TABLE 2-6 — TWO-FLATS AND THREE-FLATS IN RSA AND RM DISTRICTS				
Regulation		R3	RSA	RM
a. Lot				
	Minimum Lot Area (square feet)	10,000	8,000	6,000
q	Minimum Site Width & Street Frontage (feet)	85	60	60
w	Maximum Impervious Coverage (%)	35	35	35
b. Building Siting				
Minimum Principal Building Setbacks (feet)				
e	Front Street	30[1]	30[1]	30[1]
r	Side Street	15[1]	15[1]	15[1][2]
t	Interior Side	8.5	8.5	7.5
y	Rear	40	40	30
Minimum Accessory Building & Accessory Structure Setbacks (feet)				
	Front Street	— — — — Permitted in rear yard only — — — —		
r	Side Street	20	20	15[3]
t	Interior Side	10	10	10
u	Rear	10[3]	10[3]	10[3]
c. Maximum Building Height				
i	Principal Building (feet)	40	40	40
	Accessory Building (feet)	20[4]	20[4]	20[4]
d. Street Facades				
o	Street-facing Entrance			
	Minimum Number	— — — — 1 per building — — — —		
e. Parking and Garages				
	Surface Parking Location	— — — — Permitted in rear yard only — — — —		
	Garage Configuration	— — — — See Division 2-9 — — — —		

[1] Plus 15 feet if abutting arterial street.

[2] Street-facing garage entries shall be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.

[3] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.

[4] Or height of principal building, whichever is less.

Article II Residential Districts

Division 2-5 Multi-Unit Residential Buildings | Sec. 27.31 Lot and Building Regulations—RM Districts

DIVISION 2-5. MULTI-UNIT RESIDENTIAL BUILDINGS

Sec. 27.31. Lot and Building Regulations—RM Districts

Multi-unit residential buildings (4 or more dwelling units) are allowed in all RM districts, subject to compliance with the lot and building regulations of [Table 2-7](#) (see also [Figure 2-5](#)).

TABLE 2-7 — MULTI-UNIT RESIDENTIAL BUILDINGS IN RM DISTRICTS					
Regulation		RM-14	RM-18	RM-30	RM-40
a. Lot					
	Minimum Lot Area (square feet)	15,000	15,000	15,000	15,000
	Minimum Lot Area per Unit (square feet)	3,000	2,400	1,450	1,075
q	Minimum Lot Width & Street Frontage (feet)	100	100	100	100
w	Maximum Impervious Coverage (%)	35	35	65	65
	Maximum Density (dwelling units per acre)	14	18	30	40
	Minimum Outdoor Recreation/Play Area (%)	5%	5%	5%	5%
b. Building Siting					
Minimum Principal Building Setbacks (feet)					
e	Front Street	30	30	30	30
r	Side Street	15[1]	15[1]	15[1]	15[1]
t	Interior Side	7.5	7.5	7.5	7.5
y	Rear	30	30	30	30
Minimum Accessory Building & Accessory Structure Setbacks (feet)					
	Front Street	— — — Permitted in rear yard only — — —			
r	Side Street	15[2]	15[2]	15[2]	15[2]
t	Interior Side	10	10	10	10
y	Rear	10[3]	10[3]	10[3]	10[3]
c. Maximum Building Height					
u	Principal Building (stories)	4	4	5	5
	Accessory Building (feet)	20[4]	20[4]	20[4]	20[4]
d. Street Facades					
i	Minimum Front Facade Transparency (%)	20	20	20	20
	Min. Street Side Facade Transparency (%)	10	10	10	10
o	Street-facing Entrance				
	Minimum Number	— — — — 1 per front facade — — — —			
e. Parking and Garages					
1)	In-Building Parking Location	Permitted anywhere below grade and in above-grade floors if located at least 20 feet from front facade			
	Surface Parking Location	Permitted in rear yard and side yard (behind principal building setback)			
f. Transition Buffers (See Division 9-2)					
	Minimum Buffer Depth Abutting RS-Zoned Lot (ft.)	50	50	50	50

[1] Plus 15 feet if abutting arterial street.

[2] Street-facing garage entries shall be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.

[3] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.

[4] Or height of principal building, whichever is less.

Article II Residential Districts

Division 2-6 Courtyard Housing | Sec. 27.32 Lot and Building Regulations—RSA and RM Districts

DIVISION 2-6. COURTYARD HOUSING

Sec. 27.32. Lot and Building Regulations—RSA and RM Districts

Courtyard housing is allowed in all RSA and RM districts, subject to compliance with the lot and building regulations of [Table 2-8](#) (see also [Figure 2-6](#)).

TABLE 2-8—BUNGALOW COURTS IN RSA AND RM DISTRICTS			
Regulation		RSA	RM
a. Site/Lot			
	Minimum Site Area (square feet)	15,000	15,000
	Minimum Site Area per Unit (square feet)	3,000	2,500
q	Minimum Site Width & Street Frontage (feet)	150	150
	Minimum Site Depth	150	150
	Minimum Lot Area	1,200	1,200
w	Maximum Impervious Coverage (%)	65	65
	Minimum Courtyard Area (sq. ft. per unit)	500	500
b. Building Siting			
Minimum Principal Building Setbacks (feet)			
e	Front Street	15	15
r	Side Street	15	15
t	Interior Side	5	5
y	Rear	15	15
Minimum Accessory Building <u>& Accessory Structure</u> Setbacks (feet)			
	Front Street	— — — Permitted in rear yard only — — —	
r	Side Street	15	15
t	Interior Side	5	5
y	Rear	15	15
c. Maximum Building Height			
u	Principal Building (feet)	25	30
	Accessory Building (feet)	18[1]	20[1]
d. Street Facades			
o	Street-facing Entrance		
	Minimum Number	1 per front facade of all units adjacent to street	
e. Parking Location			
	Courtyard	— — — Not allowed — — —	
	Front or Side Street Yard	— — — Not allowed — — —	
	Interior Side Yard	— — — Allowed — — —	
	Rear Yard	— — — Allowed — — —	

[1] Or height of principal building, whichever is less.

DIVISION 2-8. CIVIC BUILDINGS

Sec. 27.35. Lot and Building Regulations—R Districts

Civic buildings, which may be occupied only by allowed public and civic uses, are allowed in all R districts, subject to compliance with the lot and building regulations of [Table 2-10](#) (see also [Figure 2-7](#)).

TABLE 2-10—CIVIC BUILDINGS IN R DISTRICTS				
Regulation		RS	R3 and RSA	RM
a. Lot				
	Minimum Lot Area (square feet)	10,000	10,000	10,000
q	Minimum Lot Width & Frontage (feet)	75	75	75
w	Maximum Impervious Coverage (%)	45	45	45
b. Building Siting				
Minimum Principal Building Setbacks (feet)				
e	Front Street	35[1]	30[2]	30[2]
r	Side Street	35[1]	20[3]	20[3]
t	Interior Side	10	10	10
y	Rear	40	40	40
Minimum Accessory Building & Accessory Structure Setbacks (feet)				
	Front Street	— — — — Permitted in rear yard only — — — —		
r	Side Street	35[1]	20[3]	20[3]
t	Interior Side	10	10	10
y	Rear	10[4]	10[4]	10[4]
c. Maximum Building Height				
u	Principal Building (feet)	40	40	45
	Accessory Building (feet)	20[5]	20[5]	20[5]
d. Parking				
i	Surface Parking Location	Permitted in rear yard and side yard (behind principal building setback); see also landscaping and screening regulations of Article IX .		

[1] Plus 15 feet if abutting arterial street.

[2] Plus 20 feet if abutting arterial street.

[3] Plus 30 feet if abutting arterial street.

[4] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.

[5] Or height of principal building, whichever is less.

DIVISION 2-9. GARAGES

Sec. 27.36. Applicability

The regulations of this section apply to garages on lots occupied by detached houses, attached houses or two-flats. The regulations also apply to carports.

Sec. 27.37. Detached Houses and Two-Flats

a. Garage Configurations Allowed

Garages for detached houses and two-flats may be rear-loaded, side-loaded or front-loaded, in accordance with the regulations of this section.

b. Rear-loaded Garages

Rear-loaded garages may be attached or detached, with the vehicle entrance generally oriented to the rear of the lot. Rear-loaded detached garages shall be set back at least 3 feet from the alley right-of-way.

c. Side-Loaded Garages

Side-loaded garages may be attached or detached, with the vehicle entrance generally oriented perpendicular to the front wall plane of the principal building. Side-loaded garages may be accessed by a driveway leading from a side street or from the front street. Vehicle entrances to all side street-loaded garages shall be setback at least 20 feet from the street right-of-way.

d. Front-loaded Garages

Vehicle entrances to all front-loaded garages shall be setback at least 20 feet from the street right-of-way. Front-loaded garages may not constitute more than 50% of the width of the dwelling unit or be wider than 13 feet, whichever is greater. Front-loaded garages shall comply with either recessed garage or semi-flush garage regulations of this section:

Recessed

Recessed (front loaded) garages are attached to or contained within the principal building, with garage doors oriented to the front street. Garage doors on recessed garages shall be set back at least 20 feet from the front wall plane of the principal building.

Semi-flush

Semi-flush (front loaded) garages are attached to or contained within the principal building, with garage doors oriented to the front street. Garage doors on semi-flush garages shall be set back at least 3 feet from the front wall plane of the principal building. Individual garage doors on semi-flush garages may not exceed 11 feet in width.

Sec. 27.38. Attached Houses

a. Garage Configurations Allowed

Garages for attached houses on lots abutting arterial streets shall be rear-loaded, in accordance with the regulations of this section. Garages for attached houses on lots abutting non-arterial streets may be rear-loaded, side-loaded or front-loaded, in accordance with the regulations of this section.

b. Rear-loaded Garages

Rear-loaded garages may be attached or detached, with the vehicle entrance generally oriented to the rear of the lot. Rear-loaded detached garages shall be set back at least 3 feet from the alley right-of-way.

c. Front- and Side Street-loaded Garages

1. Front-loaded garage entrances shall be recessed at least 12 inches behind the front wall plane of the principal building or be located beneath a second-story building that projects at least 12 inches forward of the garage entrance.
2. Front-loaded garages may not constitute more than 50% of the width of the individual attached house dwelling unit or be wider than ~~14~~13 feet, whichever is greater.
3. Vehicle entrances to all front and side street-loaded garages shall be setback at least 20 feet from the street right-of-way.
4. When garages are paired (abutting), driveways shall be combined and centered on the property line between attached house dwelling units. In all cases, driveways serving front- or side street-loaded attached house garages shall be designed to ensure at least 25 feet of uninterrupted curb length between single or paired driveways.

Sec. 27.39. Exceptions

- a. Garages and carports that exist on the effective date specified in [Sec. 27.4](#) but that do not comply with the regulations of this division ([Division 2-9](#)), may be modified, reconstructed or replaced as long as the modification, reconstruction or replacement does not result in the garage or carport exceeding the extent of non-compliance with the garage regulations of this division ([Division 2-9](#)).

- b. ~~The community development director is authorized to approve an administrative variance to the garage regulations of this section in accor-~~

Article II Residential Districts

Division 2-9 Garages | Sec. 27.39 Exceptions

~~dance with the administrative variance procedures of Division 10-8. In reviewing requests for administrative variance approval, the community development director shall consider:~~

- ~~1. Whether the requested exception would adversely affect the safety of non-motorized travel; and~~
- ~~2. Whether the proposed alternative design would have an adverse impact on the established character of the surrounding area and, if so, whether measures have been taken to mitigate such impacts.~~

DIVISION 3-2. COMMERCIAL HOUSES

Sec. 27.45. Lot and Building Regulations

Commercial houses are allowed in all MX1 and MX2 districts, subject to compliance with the lot and building regulations of [Table 3-3](#) (see also [Figure 3-1](#)).

TABLE 3-3 — COMMERCIAL HOUSE LOT AND BUILDING REGULATIONS			
Regulation		MX1	MX2
a. Lot			
	Minimum Lot Area (square feet)	6,000	6,000
q	Minimum Lot Width & Frontage (feet)	50	50
w	Maximum Impervious Coverage (%)	55	65
b. Building Siting			
Minimum Principal Building Setbacks (feet)			
e	Front Street	30	30
r	Side Street	15[1]	15[1]
t	Interior Side	7.5	7.5
y	Rear	30	30
Minimum Accessory Building & Accessory Structure Setbacks (feet)			
	Front Street	— Permitted in rear yard only —	
r	Side Street	15[1]	15[1]
t	Interior Side	5	5
u	Rear	10[2]	10[2]
c. Building Height			
	Ground-Story Elevation (min/max above front street building line, feet)	0/3	0/3
i	Maximum Principal Building Height (feet)	40	40
	Maximum Accessory Building Height (feet)	20[3]	20[3]
d. Street Facades			
o	Minimum Front Facade Transparency (%)	15	15
	Min. Street Side Facade Transparency (%)	5	5
1)	Front Street-facing Entrance		
	Minimum Number	— — — — 1 per building — — — —	
1!	Entrance Configuration	— — Stoop or porch required — —	

- [1] Street-facing garage entries must be set back at least 20 feet from the back of the sidewalk or from the street right-of-way, whichever results in a greater setback.
- [2] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting lot.
- [3] Or height of principal building, whichever is less.

DIVISION 4-4. LOT AND BUILDING REGULATIONS

Sec. 27.54. All Allowed Building Types

All allowed building types in commercial and employment districts are subject to the lot and building regulations of [Table 4-3](#), except that attached houses in the O-C-R district are subject to the same regulations that apply to attached houses in the RM district (see [Sec. 27.29](#)).

TABLE 4-3—LOT AND BUILDING REGULATIONS IN COMMERCIAL & EMPLOYMENT DISTRICTS								
Regulation		NS	C-1	C-2	O-I	O-D	O-C-R	M
a. Lot								
	Minimum Lot Area (square feet)	12,000	20,000	30,000	20,000	43,560	87,120	30,000
q	Minimum Lot Width & Frontage (feet)	80	100	100	100	150	100	100
w	Maximum Impervious Coverage (%)	80	80	80	80	80	80	80
b. Building Siting								
Minimum Principal Building Setbacks (feet)								
e	Front Street	[1]	15	15	15	15	15	15
r	Side Street	[1]	15	15	15	15	15	15
t	Interior Side	[2]	20[3]	20[3]	20[3]	20[3]	20[3]	20[3]
y	Rear	[3]	30	30	30	30	40	30
Minimum Accessory Building & Accessory Structure Setbacks (feet)								
	Front Street	— — — — Permitted in rear yard only — — — —						
r	Side Street	[1]	50	50	50	50	20	20
t	Interior Side	[2]	10	10	10	10	10	10
y	Rear	[4]	10[5]	10[5]	10[5]	10[5]	10[5]	10[5]
c. Maximum Building Height								
u	Principal Building (stories/feet)	2/30	2/35[6]	2/35[6]	5/70[7]	2/35[6]	2/35[6][8]	5/70[7]
d. Density/Intensity								
	Maximum Density (dwelling units per acre)	NA	NA	NA	NA	NA	30	NA
	Maximum Floor Area Ratio	None	None	None	None	None	1.50	None
	Maximum Building Floor Area	25,000	No absolute maximum. Subject to compliance with all other applicable regulations.					
e. Transition Buffers (See Division 9-2)								
	Minimum Buffer Depth Abutting R-Zoned Lot (ft.)	25	50	50	50	50	50	50

- [1] As established by conditions imposed at time of rezoning or SLUP approval.
- [2] As established by conditions imposed at time of rezoning or SLUP approval or 10 feet, whichever is greater.
- [3] No interior side setback required abutting another commercial or employment district.
- [4] As established by conditions imposed at time of rezoning or SLUP approval or 20 feet, whichever is greater.
- [5] Minimum 25-foot rear setback required for accessory buildings when rear yard adjoins side yard of abutting R-zoned lot.
- [6] Greater building heights may be approved through the special land use permit procedures of [Division 10-3](#).
- [7] Buildings on O-1 or M-zoned lots located within the Buford Highway Overlay may be eligible for increased as-of-right building height, in accordance with [Division 5-2](#). Outside the Buford Highway Overlay, greater building heights may be approved through the special land use permit procedures of [Division 10-3](#).
- [8] Detached houses subject to maximum building height limit of 40 feet.

Article V Overlay Districts

Division 5-2 /BHO, Buford Highway Overlay | Sec. 27.66 Workforce Housing Incentives

expanded by mutual agreement between the owner of the abutting property and the entity controlling the subject right-of-way, or a public access easement may be provided to the city to accommodate the required streetscape elements.

e. Landscape Zones

1. Street trees shall be planted in all landscape zones spaced at a maximum distance of 30 feet on center or as approved by the City Arborist.
2. New street trees shall be a minimum of 3.5 inches in caliper measured 12 inches above ground, shall be a minimum of 16 feet in height, shall have a minimum mature height of 30 feet and shall be limbed up to a minimum height of 8 feet.
3. Street trees shall have a minimum planting area of 4 feet by 8 feet. Tree planting areas shall provide porous drainage systems that allow for drainage of the planting area.
4. Street tree species shall be consistent for the entire length of the subject block face. Species are permitted to change on individual block faces only in cases of limited supply and/or concerns regarding disease or the health of existing and proposed trees. Such changes require review and approval by the community development director, after consultation with a certified arborist.
5. All planting and plant removal activity within required landscape zones, other than routine maintenance, requires review and approval by the community development director.
6. Street lights shall be located within the landscape zone spaced at a maximum distance of 60 feet on center on the following streets: Buford Highway, North Druid Hills Rd., Briarcliff Rd., Clairmont Rd., Briarwood Rd. and Cliff Valley Way.
7. Benches, trash receptacles, and bike racks shall be placed within the landscape zone on the following streets: Buford Highway, North Druid Hills Rd., Briarcliff Rd., Clairmont Rd., Briarwood Rd. and Cliff Valley Way. Such features shall be provided at a ratio of not less than one bench, one trash receptacle, and one bike rack per 300 feet of street frontage, or portion thereof. Bike racks provided to meet this requirement may be counted towards satisfying bicycle parking requirements of this chapter.
8. Landscape zones shall be planted with grass, ground cover or flowering plants, or consist of brick pavers, concrete pavers, or granite pavers where on-street parking is provided or pedestrian crossing and/or congregation is likely.

f. Pedestrian Zones

1. Pedestrian zones shall be paved in concrete and kept clear and unobstructed for the safe and convenient use of pedestrians.
2. All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent pedestrian zone area.
3. Pedestrian zones paved with materials other than concrete may be allowed with the approval of the community development director.
4. When newly constructed sidewalks abut existing adjacent sidewalks located within the boundaries of the /BHO district, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks. When newly constructed sidewalks abut existing adjacent sidewalks that are not located within the boundaries of the /BHO district, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks by tapering to match the width of the existing sidewalks, except if no adjacent sidewalk exists, the new sidewalk shall taper to match the widths identified in Sec. 14-677 of the city code. Any development that disturbs existing sidewalks on an adjacent property shall replace disturbed areas to their pre-disturbance state and condition.
5. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each publicly accessible building entrance, including pedestrian access routes to parking decks and through parking lots and between adjacent buildings within the same development. All such pathways shall be paved, with a minimum width of 3 feet or the width required by the underlying zoning district or ADA accessibility criteria, whichever width is greater.

Sec. 27.66. Workforce Housing Incentives

- a. Developers shall be entitled (as of right) to one additional story of building height for each 10%

of workforce housing units provided in excess of any applicable mandatory minimum requirements. Bonus height may exceed the maximum applicable building height limit of the underlying zoning district but may not exceed the maximum height limits established pursuant to [Sec. 27.68](#).

- b. The planning commission is authorized to recommend and the city council is authorized to approve other incentives to projects that exceed applicable mandatory minimums, including fee waivers, expedited permitting and financial assistance.

Sec. 27.67. Peachtree Creek Greenway

- a. The provisions of this section are intended to protect and enhance the Peachtree Creek Greenway, which is a major public investment and recreational amenity within the Buford Highway area.
- b. Service, loading and outdoor storage areas on lots abutting the Peachtree Creek Greenway shall be screened in accordance with [Sec. 27.258](#). The screening required from R-zoned lots and public rights of way shall also be provided from the Greenway trail. Walls, fences and landscape screens may have breaks or openings to allow for access to the greenway trail.

Sec. 27.68. Building Heights and Density

- a. Hospitals, medical office and health service buildings, **general office** and hotels on O-I, **OCR**, M or X-zoned lots located south of I-85 within the boundaries of the /BHO district may be up to 20 stories in height. Parking decks accessory to such uses may not exceed 8 stories in height. All other buildings are subject to the regulations of [Sec. 27.68-b](#).
- b. To help implement the development intensities recommended in the Buford Highway Corridor Character Area of the comprehensive plan, buildings on properties within the /BHO district may exceed the maximum applicable building height limit of the underlying zoning district if approved through the special land use permit procedures of [Division 10-3](#). This provision does not apply to the buildings and uses specified in [Sec. 27.68-a](#).
- c. To help implement the development intensities recommended in the Buford Highway Corridor Character Area of the comprehensive plan, residential and mixed-use buildings on properties within the /BHO district may exceed the maximum applicable density limit of the underlying zoning district if approved through the special and use permit procedures of [Division 10-3](#).

Sec. 27.69. Utilities

All utilities shall be located underground.

Sec. 27.70. Open Space

a. Applicability

On-site open space shall be provided for development sites within the /BHO district except for those:

1. Developed exclusively with single-family detached dwellings; and
2. Sites located south of I-85.

b. Minimum Open Space Ratio

The minimum amount of on-site open space required is based on the size of the lot on which the use is located, as follows:

1. On development sites with an area of less than one acre, at least 10% of the development site shall be open space; and
2. On development sites with an area of one acre or more, at least 15% of the development site shall be open space.

c. General Regulations

The general regulations of this subsection apply to open space provided to meet minimum open space ratios.

1. Areas counted to meet the open space regulations of this section ([Sec. 27.58](#)) shall be provided in the form of amenity spaces, plazas, pocket parks or parks that comply with the applicable regulations of this section. Street rights-of-way, parking lots, outdoor dining areas, transition buffers, landscape strips and other areas that do not comply with applicable open space regulations may not be counted toward satisfying open space ratios.
2. No buildings may be located in open spaces unless expressly stated in this section.
3. Unless otherwise expressly stated in this section, open spaces shall be open to general public access during daylight hours and shall be directly accessible from a public sidewalk.
4. Open spaces shall be at-grade, unless otherwise expressly stated in this section.
5. No individual open space may traverse a street or rail right-of-way unless located on a bridge over such right-of-way that conforms to the minimum dimensional requirements of the subject open space type.
6. When a building or individual ground-story commercial establishment adjoins an open

Article V Overlay Districts

Division 5-3 /PRO, Peachtree Road Overlay | Sec. 27.76 Streetscapes

TABLE 5-6 — REQUIRED STREETSCAPE WIDTH

Street	Landscape Zone (ft)		Pedestrian Zone (ft)	
	Min.	Max.	Min.	Max.
Peachtree Road	6	12	10	15
Dresden Drive	6	12	8	13
North Druid Hills Rd.	6	12	8	13
Apple Valley Rd.	6	12	8	13
All other Streets	6	12	6	11

- e. On existing streets with insufficient right-of-way width to accommodate the required streetscape elements, the right-of-way needed to accommodate the required streetscape elements may be expanded by mutual agreement between the owner of the abutting property and the entity controlling the subject right-of-way, or a public access easement may be provided to the city to accommodate the required streetscape elements.

f. Landscape Zones

1. Street trees shall be planted in all landscape zones spaced at a maximum distance of 30 feet on center or as approved by the City Arborist.
2. New street trees shall be a minimum of 3.5 inches in caliper measured 12 inches above ground, shall be a minimum of 16 feet in height, shall have a minimum mature height of 30 feet and shall be limbed up to a minimum height of 8 feet.
3. Street trees shall have a minimum planting area of 4 feet by 8 feet. Tree planting areas shall provide porous drainage systems that allow for drainage of the planting area.
4. Street tree species shall be consistent for the entire length of the subject block face. Species are permitted to change on individual block faces only in cases of limited supply and/or concerns regarding disease or the health of existing and proposed trees. Such changes require review and approval by the community development director, after consultation with a certified arborist.
5. All planting and plant removal activity within required landscape zones, other than routine maintenance, requires review and approval by the community development director.
6. Street lights shall be located within the landscape zone spaced at a maximum distance of 60 feet on center on the following streets:

Peachtree Road, Dresden Drive, North Druid Hills Road and Apple Valley Road.

7. Benches, trash receptacles, and bike racks shall be placed within the landscape zone on the following streets: Peachtree Road, Dresden Drive, North Druid Hills Road and Apple Valley Road. Such features shall be provided at a ratio of not less than one bench, one trash receptacle, and one bike rack per 300 feet of street frontage, or portion thereof. Bike racks provided to meet this requirement may be counted towards satisfying bicycle parking requirements of this chapter.
8. Landscape zones shall be planted with grass, ground cover or flowering plants, or consist of brick pavers, concrete pavers, or granite pavers where on-street parking is provided or pedestrian crossing and/or congregation is likely.

g. Pedestrian Zones

1. Pedestrian zones shall be paved in concrete and kept clear and unobstructed for the safe and convenient use of pedestrians.
2. All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent pedestrian zone area.
3. Pedestrian zones paved with materials other than concrete may be allowed with the approval of the community development director.
4. When newly constructed sidewalks abut existing adjacent sidewalks located within the boundaries of the /PRO district, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks. When newly constructed sidewalks abut existing adjacent sidewalks that are not located within the boundaries of the /PRO district, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks by tapering to match the width of the existing sidewalks, except if no adjacent sidewalk exists, the new sidewalk shall taper to match the widths identified in Sec. 14-677 of the city code. Any development that disturbs existing sidewalks on an adjacent property shall replace disturbed areas to their pre-disturbance state and condition.
5. Safe and convenient pedestrian pathways shall be provided from sidewalks along

Article VI Special Purpose Districts

Article VI PR, Peachtree Road Districts | Sec. 27.102 General Building Regulations

Sec. 27.102. General Building Regulations

General buildings are subject to the regulations of [Table 6-8](#). (see also [Figure 6-6](#) and the Peachtree Road Overlay [PRO] regulations of [Article V](#)).

TABLE 6-8 — GENERAL BUILDINGS		PR-1	PR-2	PR-3	Supplemental
a. Lot					
q	Minimum Lot Area (square feet)	None	None	None	
w	Minimum Lot Width (feet)	None	None	None	
b. Siting					
e	Minimum Front Setback (feet)	5	5	5	See Sec. 27.103
r	Maximum Front Setback (feet)	20	20	20	See Sec. 27.103
	Minimum Building Coverage at/between Min. and Max. Front Setback (%)	60	60	60	
t	Minimum Interior (non-street) Side Setback (feet)	0 or 5	0 or 5	0 or 5	
y	Minimum Street Side Setback (feet)	10	10	10	
u	Minimum Rear Setback (feet)	10	10	10	
c. Uses					
i	All Stories	any use allowed by Table 7-1 [1]			
d. Open Space and Building Coverage					
	Minimum Open Space (% of development site)				
	Site Area less than 1 Acre	10	10	10	See Sec. 27.112
	Site Area 1 Acre or more	15	15	15	
	Maximum Building Coverage (% of lot area)	85	85	85	
e. Height					
o	Ground-Story Elevation (min/max above sidewalk, ft.)	0 to 3	0 to 3	0 to 3	
1)	Minimum Height per Story (feet, floor-to-floor)				
1!	Ground Story	14	14	14	See Sec. 27.428
	Upper Stories (above first)	10	10	10	
1)	Maximum Height per Story (feet, floor-to-floor)				
1!	Ground Story	30	30	30	See Sec. 27.428
	Upper Stories (above first)	14	14	14	
1@	Minimum Overall Height (stories)	2	2	2	See Sec. 27.428
1@	Maximum Overall Height (stories) [2][3]				
	Without Bonus	6	4	3	See Sec. 27.104 See Sec. 27.105
	With Public Benefit Bonuses	8	6 [4]	4	
	With TOD Bonus	12	NA	NA	
f. Facades					
1#	Minimum Front Facade Transparency				
1\$	Ground Story	25	25	25	See Sec. 27.106
	Upper Stories (above first)	15	15	15	
	Minimum Street-Side Facade Transparency				
	All Stories	15	15	15	See Sec. 27.106
g. Lot Edges					
1%	Edge Type Required	Landscape or Hardscape			See Sec. 27.107
	Edge Element Required	None			and Sec. 27.110

Table 6-8 Notes

[1] No **more-less** than 25% of ground story floor area **may-shall** be occupied by those active ground-story uses identified in [Sec. 27.104](#).

[2] On lots with frontage on Apple Valley Road, all portions of buildings above 80 feet in height shall be set back at least 20 feet from the front facade of the building story immediately below.

[3] All portions of buildings above 60 feet in height shall be set back at least 20 feet from the front facade of the building story immediately below.

[4] Buildings may not exceed 4 stories in height east of Apple Valley Road.

Article VI Special Purpose Districts
Article VI PR, Peachtree Road Districts | Sec. 27.111 Parking

may not exceed 150% of the straight line distance from the entrance to the closest public sidewalk, except where an intervening rail line, stream or similar physical barrier exists.

Sec. 27.111. Parking

a. General

The parking and access regulations of [Article VIII](#) apply in PR districts unless otherwise expressly stated in this division ([Division 6-2](#)).

b. Parking Location

1. Access to off-street parking spaces serving attached houses shall come from alleys or shared driveways located in street side or rear yard. Access to off-street parking spaces serving all other building types shall come from alleys or driveways.
2. Off-street parking may not be located between a public street and a principal building's front facade. On lots with more than one street frontage, the front of the lot is deemed to be the side of the lot with frontage on the street with the highest classification, as follows (from highest to lowest):
 - (a) Primary Streets: Peachtree Road and Apple Valley Road;
 - (b) Secondary Streets: Dresden Drive, North Druid Hills Road, Hermance Drive, Ashford-Dunwoody Road, Lanier Drive, Osborne Drive, Brookhaven Place; and
 - (c) Tertiary Streets: new streets and existing streets not classified as primary or secondary.
3. Off-street parking spaces located within the ground-story of any building, including a parking deck, may not be located within 20 feet of any street-facing building facade that abuts a lot edge. This provision does not apply to the street-side facade of detached houses or attached houses.

4. Wheel stops shall be provided in parking spaces located adjacent to pedestrian zones.

c. Design

1. Parking Decks

All upper stories of a parking deck visible from a public street are subject to the building design regulations of [Sec. 27.109](#).

2. Parking Deck Lighting

Light fixtures that are directly visible from the exterior of a parking deck shall either be directed upward or shielded so that the light source is not visible from outside the parking deck.

Sec. 27.112. Open Space

a. Applicability

On-site open space shall be provided for development sites except those developed exclusively with single-family detached dwellings.

b. Minimum Open Space Ratio

The minimum amount of on-site open space required is based on the size of the lot on which the use is located, as follows:

1. On development sites with an area of less than one acre, at least 10% of the development site shall be open space; and
2. On development sites with an area of one acre or more, at least 15% of the development site shall be open space.

c. General Regulations

The general regulations of this subsection apply to open space provided to meet minimum open space ratios and to open space provided to obtain a public benefit or TOD height bonus.

1. Areas counted to meet the open space regulations of this section ([Sec. 27.112](#)) and to qualify for public benefit height bonuses (see [Sec. 27.104](#)) shall be provided in the form of amenity spaces, plazas, pocket parks or parks that comply with the applicable regulations of this section. Street rights-of-way, parking lots, outdoor dining areas, neighborhood transition buffers, landscape strips and other areas that do not comply with applicable open space regulations may not be counted toward satisfying minimum or bonus open space ratios.
2. No buildings may be located in open spaces unless expressly stated in this section.
3. Unless otherwise expressly stated in this section, open spaces shall be open to general public access during daylight hours and shall be directly accessible from a public sidewalk.
4. Open spaces shall be at-grade, unless otherwise expressly stated in this section.
5. No individual open space may traverse a street or rail right-of-way unless located on a bridge over such right-of-way that conforms to the minimum dimensional requirements of the subject open space type.
6. When a building or individual ground-story commercial establishment adjoins an open space, pedestrian access (both ingress and

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Article VII Uses

Division 7-3 Use Classifications | Sec. 27.147 Determination of Use Categories and Subcategories

TABLE 7-1 — PRINCIPAL USE TABLE

USE CATEGORY	Districts																
	Residential			Mixed-Use				Comm./Employment					Peachtree Rd.			Reference	
Use Subcategory	RS	RSA	RM	MX1	MX2	CX	EX	NS	C-1	C-2	O-I	O-D	O-C-R	M	PR-1		PR-2
Specific Use Type																	
RESIDENTIAL																	
Household Living																	Sec. 27.148
Single Household	●	●	●	○	○	○	-	-	-	-	-	-	●	-	●[1]	●[1]	●[1]
Two Household	-	●	●	○	○	○	-	-	-	-	-	-	●	-	●[1]	●[1]	●[1]
Three Household	-	●	●	○	○	○	-	-	-	-	-	-	●	-	●[1]	●[1]	●[1]
Four+ Household	-	-	●	○	○	○	-	-	-	-	③	-	●	-	See [2]		
Live-Work	-	-	-	●	●	●	●	-	-	-	③	-	③	-	●[3]	●[3]	●[3]
Group Living																	Sec. 27.149
Assisted Living Facility	-	-	●	○	○	○	-	-	-	-	●	-	-	-	○	○	○
Convent or Monastery	③	③	③	-	-	-	-	-	-	-	-	-	●	-	-	-	-
Fraternity, Sorority or Dormitory	-	-	③	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nursing Home	-	-	●	-	-	-	-	-	-	-	●	-	-	●	○	○	○
Personal Care Home (4-6 residents)	③	③	●	○	○	○	-	●	●	●	●	●	-	-	○	○	○
Personal Care Home (7+ residents)	-	-	●	○	○	○	-	●	●	●	●	●	-	-	○	○	○
Shelter, Temporary	-	-	③	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transitional Housing	-	-	③	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Group Living not otherwise classified	-	-	③	-	③	③	-	-	-	-	③	-	③	-	-	③	③
PUBLIC AND CIVIC																	
Cemetery	③	③	③	-	-	-	-	-	-	-	●	●	-	-	-	-	-
Club or Lodge	-	-	-	-	-	●	●	-	●	●	●	●	-	●	-	-	-
College or University	-	-	-	-	-	-	-	-	-	-	●	●	-	●	●	●	●
Heliport	-	-	-	-	-	-	③	-	-	-	③	③	-	●	-	-	-
Hospital	-	-	-	-	-	-	-	-	-	-	●	-	●	●	-	-	-
Library or Cultural Exhibit	-	-	-	●	●	-	-	-	●	●	●	-	-	-	●	●	●
Religious Assembly	③	③	③	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Safety Service	-	-	-	●	●	●	●	-	●	●	-	-	-	-	●	●	●
School	③	③	③	-	-	-	-	-	-	-	●	●	-	●	●	●	●
Utilities and Public Service Facilities																	Sec. 27.160
Minor	●	●	●	●	●	●	●	●	●	●	-	●	-	●	●	●	●
Major	③	③	③	③	③	③	③	③	③	③	③	③	③	③	③	③	③
COMMERCIAL																	
Animal Service																	Sec. 27.161
Boarding	-	-	-	-	-	●	●	③	●	●	-	-	●	●	-	●	●
Grooming	-	-	-	●	●	●	●	●	●	●	-	-	●	●	●	●	●
Veterinary	-	-	-	-	●	●	●	●	●	●	-	-	-	●	●	●	●
Assembly and Entertainment																	Sec. 27.162
Small	-	-	-	●	●	●	●	-	●	●	-	-	-	-	●	●	●

KEY: ●=permitted by right | ●=permitted only above ground-floor | ③=requires SLUP approval | *supplemental use regulations apply | —=prohibited

Article VII Uses

Division 7-3 Use Classifications | Sec. 27.147 Determination of Use Categories and Subcategories

TABLE 7-1 — PRINCIPAL USE TABLE

USE CATEGORY	Districts																	
Use Subcategory	Residential			Mixed-Use				Comm./Employment						Peachtree Rd.				
Specific Use Type	RS	RSA	RM	MX1	MX2	CX	EX	NS	C-1	C-2	O-1	O-D	O-C-R	M	PR-1	PR-2	PR-3	Reference
Large	-	-	-	-	●	●	●	-	-	●	-	-	-	-	●	●	●	
Business or Trade School	-	-	-	-	●	●	●	-	-	●	●	●	●	●	-	-	-	Sec. 27.163
Commercial Service																		Sec. 27.164
Consumer Maintenance and Repair	-	-	-	●	●	●	●	●	●	●	-	-	●	●	●	●	●	
Personal Service	-	-	-	●	●	●	●	●	●	●	-	-	●	-	●	●	●	
Studio or Instructional Service	-	-	-	●	●	●	●	●	●	●	-	-	●	-	●	●	●	
Day Care																		Sec. 27.165
Small (1 to 6 enrollees)	③	③	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Large (7 or more enrollees)	-	-	③	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Eating and Drinking Places																		Sec. 27.166
Restaurant	-	-	-	●	●	●	-	●	●	●	●	-	●	●	●	●	●	[4]
Bar	-	-	-	●	●	●	-	-	●	●	-	-	●	-	●	●	●	[4]
Financial Service (except as below)	-	-	-	-	●	●	●	●	●	●	●	-	●	●	●	●	●	Sec. 27.167
Convenient Cash Business	-	-	-	-	-	-	-	-	-	●	-	-	-	●	-	-	-	
Pawnshop	-	-	-	-	-	-	-	-	-	●	-	-	-	-	-	-	-	
Funeral or Mortuary Service	-	-	-	-	●	●	-	-	●	●	●	-	-	●	-	-	-	Sec. 27.168
Lodging																		Sec. 27.169
Bed & Breakfast	③	-	③	-	-	-	-	-	-	-	-	-	-	-	●	●	●	
Short-term Rental	-	-	③	③	③	-	-	-	-	-	-	-	-	-	③	③	③	
Hotel/Motel	-	-	-	③	●	●	-	-	●	●	●	●	●	●	●	●	●	
Medical Service	-	-	-	-	●	●	●	●	●	●	●	-	●	●	●	●	●	Sec. 27.170
Office	-	-	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sec. 27.171
Parking, Non-accessory	-	-	-	-	-	●	●	-	●	●	-	●	-	●	●	●	●	Sec. 27.172
Retail Sales	-	-	-	●	●	●	-	●	●	●	-	●	●	●	[5]	[5]	[4]	Sec. 27.173
Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	③	●	-	-	-	Sec. 27.174
Sports & Recreation, Participant																		Sec. 27.175
Indoor	-	-	-	-	●	●	●	-	●	●	-	-	-	●	●	●	●	
Outdoor	-	-	-	-	-	●	●	-	-	●	-	-	-	●	-	-	-	
Vehicle Sales and Service																		Sec. 27.176
Fueling Station	-	-	-	-	-	●	●	-	●	●	-	-	-	●	-	-	-	
Vehicle Sales	-	-	-	-	-	●	●	-	③	●	-	-	-	●	-	-	-	
Vehicle Rental	-	-	-	-	-	●	●	-	③	●	-	-	-	●	-	-	-	
Vehicle Maintenance & Repair, Minor	-	-	-	-	-	●	●	-	●	●	-	-	-	●	-	-	-	
Vehicle Maintenance & Repair, Major	-	-	-	-	-	-	●	-	-	●	-	-	-	●	-	-	-	
INDUSTRIAL																		
Fabrication and Production																		Sec. 27.177
Artisan	-	-	-	-	-	-	●	-	-	●	-	-	-	●	●	●	●	
Limited	-	-	-	-	-	-	●	-	-	-	-	-	-	●	●	●	●	

KEY: ●=permitted by right | ③=permitted only above ground-floor | ③=requires SLUP approval | *supplemental use regulations apply | -prohibited

k. Owner Occupancy and Rental

At least one of the dwelling units on a lot occupied by a secondary suite shall be occupied by an owner with at least a 50% interest in the subject property. The owner shall occupy either the principal dwelling unit or the secondary suite as their permanent residence for a majority of the time each calendar year. Secondary suites may not be rented for periods of less than 90 consecutive days.

Sec. 27.195. Solar Energy Systems

a. General

1. Accessory solar energy systems shall comply with all applicable building ordinance and electrical code requirements.
2. Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight. Any such easements shall be recorded with the county recorder of deeds.

b. Building-Mounted Solar Energy Systems

1. Building-mounted solar energy systems may be mounted on principal and accessory structures.
2. All applicable setback regulations apply to building-mounted solar energy systems.
3. Only building-integrated and/or flush-mounted solar energy system may be installed on street-facing building elevations.
4. Solar energy systems may not extend more than 3 feet above the applicable maximum building height limit or more than 4 feet above the highest point of the roof line, whichever is less.

c. Ground-Mounted Solar Energy Systems

1. In residential zoning districts, ground-mounted solar energy systems may not be located in a required street setback or street yard.
2. Ground-mounted solar energy systems may be located within required interior side and rear setbacks.
3. Ground-mounted solar energy systems are subject to applicable accessory structure height and lot coverage regulations.

Sec. 27.196. Swimming Pools

- a. Swimming pools are considered accessory structures, with setbacks measured from the decking

or other part of the pool structure nearest the applicable lot line.

- b. Accessory swimming pools may be approved only after receipt of written approval from the board of health.
- c. Pool heaters and pumps shall be located so that they are at least 10 feet from any ~~operable window of a habitable room of a dwelling unit on an abutting lot~~ property line.

DIVISION 7-12. TEMPORARY USES

Sec. 27.197. Temporary Buildings

- a. Unless otherwise expressly stated in this zoning ordinance, temporary buildings are prohibited in all zoning districts.
- b. Temporary buildings may be used in conjunction with ongoing construction work during the time that a valid permit is in place for such construction. Such temporary buildings require approval from the community development director and shall be removed when the construction has been completed.

Sec. 27.198. Portable Storage Containers

Portable storage containers may be parked or stored on any lot when used in conjunction with a valid, unexpired permit. When not associated with a valid permit, portable storage containers may not be parked or stored in an R zoning district for more than 15 consecutive days or a total of more than 30 days during any calendar year.

Sec. 27.199. Merchandise

Temporary outdoor sales of merchandise may be authorized in any X, C or M district upon approval of an administrative permit by the community development director pursuant to [Division 10-9](#). Such temporary sales activities are subject to the following regulations:

- a. Any applicant for a permit for temporary outdoor sales of merchandise shall provide written authorization from the subject property owner to use the property for temporary outdoor sales of merchandise.
- b. No such temporary outdoor sales of merchandise may be conducted on public property, within any public right-of-way, and no display or sales area may be located within 50 feet of the street.

of the total area between the street right-of-way line and the front of the principal building may be paved in any RS or R3 district.

- c. Circular driveways are permitted only on lots with adequate width to ensure that driveway approaches on the subject lot are spaced at least 20 feet apart and that all parts of the driveway are set back at least 5 feet from side property lines. Circular driveway where permitted, are subject to the driveway coverage limits of this section.
- d. Ribbon driveways that consist of 2 wheel tracks with turf or ground cover plantings in the me-

dian between wheel tracks are allowed to serve detached houses, attached houses and two-flats. Each wheel track of a ribbon driveway shall be surfaced in compliance with the requirements of this article and be at least 2.5 feet in width. The median area between each wheel track is not counted as impervious area if it is planted and maintained with turf or other ground cover planted within pervious soils.

Sec. 27.229. Off-site Parking

a. When Allowed

The community development director is authorized to allow all or a portion of required off-street parking to be provided off-site, in accordance with the regulations of this section. Required accessible parking spaces (see [Division 8-10](#)) may not be located off site.

b. Location

Off-site parking areas shall be located within a 1,000-foot radius of the use served by such parking, measured between the nearest public entrance door of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot. The community development director is authorized approve the location of off-site parking areas beyond 1,000 feet from the use served in accordance with the administrative variance procedures of [Division 10-8](#).

c. Required Zoning

Off-site parking lots are allowed only:

1. In zoning districts that permit non-accessory parking;
2. In districts that allow the principal use to be served by the off-site parking spaces; or
3. When approved in accordance with the special land use permit procedures of [Division 10-3](#).

d. Design

1. Off-site parking areas shall comply with applicable layout and design regulations of [Division 8-8](#).

4-2. Wheel stops shall be provided in parking spaces located adjacent to pedestrian zones.

e. Control of Off-Site Parking Area

The property to be occupied by off-site parking spaces shall be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if a legal instrument such as an easement or deed restriction guaranteeing access to the parking for the shared parking users is provided.

Sec. 27.230. Use of Off-Street Parking

- a. Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition.
- b. Required off-street parking spaces may not be used for the storage, display or sale of goods equipment or materials. No motor vehicle repair work of any kind is permitted in a required parking space.
- c. Required spaces may be used for electric vehicle charging.

DIVISION 8-8. PARKING LAYOUT AND DESIGN

Sec. 27.231. Applicability

The parking layout and design regulations of this section apply to all off-street parking lots, whether containing required parking spaces or non-required parking spaces.

Sec. 27.232. Chapter 14 Requirements

Each parking space and parking lot, including all internal circulation driveways, shall comply with the requirements of chapter 14, except as otherwise expressly stated.

Sec. 27.233. Access Drives

- a. All off-street parking lots shall have access to a public or private street and be served by a paved access drive.
- b. All access drive gates shall be set back at least 20 feet from the back of the street curb or 10 feet from the right-of-way, which results in a greater setback.

2. In order to de-emphasize the horizontal nature of the parking garage, vertical divisions at least 2 feet in width and extending the full height of the parking garage structure are required at least every 30 feet (measured horizontally) .
 3. Parking structures shall be architecturally compatible with principal buildings on the site, and the building materials used on accessory parking garages shall match or be similar to the building materials used on the principal building.
 4. Parking garages adjacent to the street shall either be lined with habitable/occupiable floor space or incorporate ornamental grillwork, artwork, or similar architectural features.
- c. Lighting**
1. Parking garages are subject the lighting regulations of Sec. 27.240.
 2. Lighting on top of parking garages is prohibited between the hours of 11:00 p.m. and sunrise, except that lighting is allowed while the parking facility is open to the public.
 3. Parking garages shall be designed to screen interior garage lights from view of abutting R-zoned lots.

DIVISION 8-9. STACKING SPACES

Sec. 27.243. Spaces Required

In addition to the parking required for each use, establishments with drive-through facilities shall provide stacking spaces for each drive-through station as indicated in [Table 8-1](#).

TABLE 8-1 — STACKING SPACE REQUIREMENTS	
Use	Min. Spaces (per lane)
Automated teller machine	2 (from ATM)
Bank	3 (from service area)
Car wash	3 (from vehicle entrance)
Drug store	2 (from pick-up window)
Restaurant drive-through	3 (from order board); bypass lane required
Kiosks	2 (from service window)
Other	As approved by community development director

Sec. 27.244. Dimensions

Each lane of stacking spaces shall be at least 9 feet in width and at least 18 feet in length. Stacking lanes shall be delineated with pavement markings.

Sec. 27.245. Bypass Lane

Drive-through restaurants shall include a bypass lane adjacent to the required stacking lane. The bypass lane shall have minimum width of 10 feet and be designed to allow vehicles to circumvent or leave the stacking lane without waiting for other queuing vehicles to exit.

Sec. 27.246. Location and Design

Stacking lanes shall be located on the subject property. They may not be located within required driveways or drive aisles, parking spaces or loading areas and may not interfere with access to parking and ingress and egress from the street. Stacking lanes and drive-through windows may not be located between the principal building and the front street unless approved in accordance with the special land use permit procedures of [Division 10-3](#).

Sec. 27.247. Pedestrian Access

The principal pedestrian access to the entrance of the use from a public sidewalk may not cross the drive-through facility stacking lane.

Sec. 27.248. Noise

Speakers associated with drive-through facilities shall not be audible from abutting R-zoned lots. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that the facility will not have adverse noise-related impacts on nearby residential uses.

Sec. 27.249. Drive-through and Drive-in Uses

Drive-through and drive in uses are allowed only as indicated in [Table 7-1](#). See also [Sec. 27.185](#).

DIVISION 8-10. ACCESSIBLE PARKING

Accessible parking facilities (for persons with disabilities) shall be provided in accordance with Georgia law.

DIVISION 8-11. RECREATIONAL AND COMMERCIAL VEHICLES

Sec. 27.250. Commercial Motor Vehicles

The parking of commercial motor vehicles (as defined in O.C.G.A § 40-1-1) ~~with an empty curb weight ex-~~

Article VIII Parking and Access

Division 8-12 Loading | Sec. 27.251 Recreational Vehicles

~~ceeding 8,000 pounds~~ is prohibited on R-zoned lots. This prohibition does not apply to:

- a. Law enforcement vehicles;
- b. Vehicles actively engaged in construction, or contractor services on the subject property;
- c. Vehicles within a completely enclosed building;
- d. The temporary parking (12 hours or less) of vehicles for the purpose of loading/unloading; or
- e. When the subject lot is occupied by an allowed nonresidential use.

Sec. 27.251. Recreational Vehicles

- a. The parking and storage of trailers and recreational vehicles is prohibited outside of an enclosed building in the following areas on R-zoned lots:
 - 1. The front or street side yard;
 - 2. Within 10 feet of an interior side lot line; or
 - 3. Within 20 feet of the rear lot line.
- b. Recreational vehicles and trailers may be parked, for the limited purpose of storage between travel, on unpaved surfaces including gravel or a similar material that prevents the vehicle's or trailer's tires from making direct contact with the earth, soil, sod or mud so long as the unpaved surface prevents tracking of earth, soil, sod or mud onto public streets when the vehicle or trailer is moved from the property.
- c. Recreational vehicles may not be occupied for human habitation for more than 14 consecutive days while parked in a R zoning district.
- d. Recreational vehicles and trailers may not be parked on an R-zoned lot that does not contain a permanent dwelling unit or other structure intended for permanent human habitation.

- b. Unenclosed off street loading areas may not be located within 25 feet of any abutting R-zoned properties.
- c. Loading spaces are prohibited in the front yard area.
- d. All loading spaces shall be posted with "No Idling" signs.
- e. All loading areas and access drives shall be surfaced and maintained with an asphaltic or Portland cement binder concrete or other dust-less, all-weather surface approved by the city engineer.
- f. See [Division 9-1](#) for landscape and screening regulations.

DIVISION 8-12. LOADING

Sec. 27.252. General

All uses that regularly receive materials or merchandise carried by delivery vehicles shall provide off-street loading facilities.

Sec. 27.253. Regulations

- a. Off-street loading areas shall be designed so that all vehicle maneuvering and loading/unloading operations will occur on private property and not interfere with or create safety hazards for motorized or non-motorized circulation.

Article IX Landscaping and Site Features
Division 9-3 Fences and Walls | Sec. 27.264 Height

to provide an effective visual screen and sound buffer within transition buffer areas.

- e. Any grading or construction adjacent to the transition buffer shall be avoid disturbance of or encroachment upon the transition buffer.
- f. Access shall be provided as required for utilities and to ensure adequacy of fire protection services.

DIVISION 9-3. FENCES AND WALLS

Sec. NEW. - Permit required.

Walls, fences, and retaining walls must be permitted by the community development department prior to installation. To receive a permit, the applicant must submit a completed application to the community development department. For walls and fences, upon receipt of a completed, compliant application, the community development department shall issue the applicant a permit on the day of receipt of the completed application at no cost to the property owner. For retaining walls, the applicable fee shall be that which is listed in the community development department fee schedule as adopted by the city council. Permits shall only be issued for walls, fences, and retaining walls that conform to the provisions of this section.

Sec. 27.264. Height

- a. Fences and masonry walls may not exceed 4 feet in height when located in the front yard or 8 feet in height when located in any other (non-front) yard. Gates may be up to 6 feet in height in front yards.
- b. Gates providing vehicle access shall be set back at least 10 feet from the right-of-way or 20 feet from back of curb, whichever results in a greater setback.
- c. Fences and masonry walls over 3 feet in height shall include a column or decorative element at least every 8 linear feet (measured horizontally) to provide architectural variations and eliminate large expanses of blank area.
- d. Masonry wall and fence heights are measured from finished grade at the base of the fence or masonry wall to the highest point of the fence or wall.
- e. Fence and masonry wall columns, posts and ornaments are permitted to exceed maximum allowed fence and wall heights by up to 2 feet.

Sec. 27.265. Fence Materials and Design

- a. Chain link fences are prohibited in street yard

areas of **R-zoned**all lots.

- b. The finished side of all fences shall face the abutting property and public right-of-way.
- c. Fences on R-zoned lots may not include barbed wire, spikes, or similar devices, or an electric charge.

Sec. 27.266. Required Fences and Walls

When this zoning ordinance or a condition of zoning approval requires a masonry wall or fence to be constructed, the wall or fence shall be in place before issuance of a certificate of occupancy for the principal structure.

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Article IX Landscaping and Site Features

Sec. 27.267. Retaining Walls

- a. Retaining walls on RS-zoned lots shall be set back from side property lines by a distance of at least 50% of the required side building setback. This retaining wall setback regulation does not apply to window wells.
 1. The zoning board of appeals is authorized to grant a variance to this setback regulations
If the board determines that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner.
 2. In addition to the materials otherwise required to be submitted with a variance application, applicants for retaining wall setback variances shall submit a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.
- b. Retaining walls on RS-zoned lots may not exceed 4 feet in height.
 1. The community development director is authorized to grant an administrative variance allowing retaining walls of up to 6 feet in height in RS districts if the director determines that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner.
 2. The zoning board of appeals is authorized to grant a variance allowing retaining walls of up to 8 feet in height in RS districts if the board determines that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner.
 3. In addition to the materials otherwise required to be submitted with a variance application, the applicant for all retaining wall height variances shall submit a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.
- c. The maximum height of a retaining wall in zoning districts other than RS districts may not exceed the horizontal distance between the face of the retaining wall and the property line of a lot containing a residential use.
- d. Retaining walls may not be located within transition buffers.

Article IX Landscaping and Site Features
Division 9-4 Outdoor Lighting | Sec. 27.268 Wing Walls

- e. Lawfully established existing retaining walls that exceed the maximum height limits are nonconforming as to the standards of this section may be repaired and replaced as long as the repair or replacement does not result in an increase in the height of the retaining wall that is replaced and does not increase the footprint of the existing retaining wall by more than 10%.

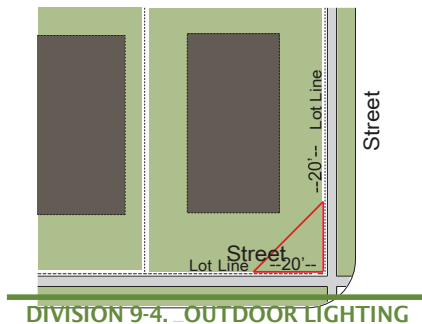
Sec. 27.268. Wing Walls

Wing walls may not exceed 12 feet in height or the height of the foundation wall to which it is attached, whichever results in a lower wing wall height. Wing walls shall not encroach into the required building setback.

Sec. 27.269. Intersection Visibility

Fences, masonry walls and other visual obstructions over 3 feet in height may not be placed or maintained on corner lots within the triangle formed by 2 lines that begin at the point of intersection of the street right-of-way lines and extend for a distance of 20 feet along each intersecting street right-of-way line and a third connecting line that forms the triangle (see [Figure 9-1](#)).

Figure 9-1. Intersection Visibility



- b. Public street lights;
- c. Airport runway and aviation safety lights required by the FAA (e.g., warning lights on radio, communication and navigation towers);
- d. Spotlighting of official government flags, provided that spotlighting is contained within the area of the flag;
- e. Outdoor lighting used exclusively for and during public recreational activities, sporting events at stadiums and ball fields or other outdoor public spaces or venues;
- f. Outdoor lighting used for emergency equipment and work conducted in the interest of law enforcement or for public health, safety or welfare;
- g. Outdoor lighting in association with special events approved by the city council;
- h. Lighting fixtures with a light output of no more than 1,000 lumens; and
- i. Temporary holiday light displays.

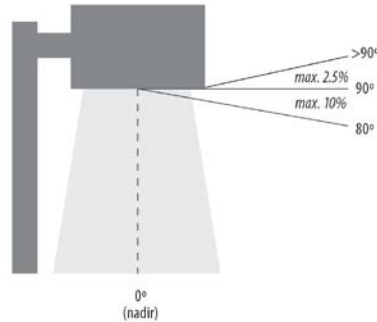
Sec. 27.272. General Regulations

All outdoor lighting shall comply with the following general regulations:

a. Canopy-Mounted Lights

Recessed fixtures shall be used in all under-canopy lighting. No lamps, reflectors, refractors or focusing or diffusing may extend below the underside of the canopy surface.

Figure 9-2. Shielded Light Fixtures



b. Arrangement and Shielding

1. Lighting shall be installed to direct light away from abutting lots that are not under common ownership or control with the lot on which the lights are located. Shielding shall be provided to ensure that the light-producing

Sec. 27.270. Purposes

The outdoor lighting regulations of this division are intended to help ensure adequate lighting for motorized and nonmotorized travelers; provide for the efficient use of energy; and reduce the impacts of nuisance lighting and glare on nearby areas.

Sec. 27.271. Applicability and Exemptions

The outdoor lighting regulations of this division apply to all outdoor lighting except for:

- a. Outdoor lighting on lots occupied by residential buildings containing fewer than 4 dwelling units;

Article X Review and Approval Procedures

Division 10-1 Common (Procedural) Provisions | Sec. 27.284 Action by Review and Decision-Making Bodies

e. **Content of Notice**

All required public hearing notices shall:

1. Indicate the date, time and place of the public hearing that is the subject of the notice;
2. Describe the location of the property involved in the application and the action or relief sought;
3. Identify who will conduct the hearing;
4. Indicate where additional information may be obtained; and
5. When the zoning decision requested has been initiated by a party other than the city, the notice shall also state the current and proposed zoning classifications of the property (in the case of rezoning).

f. **Constructive Notice**

Minor defects in required notices will not be deemed to impair the notice or invalidate proceedings pursuant to the notice. Minor defects in notice are limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. If questions arise at the hearing regarding the adequacy of notice, the hearing body shall make a formal finding about whether there was substantial compliance with the notice requirements of this zoning ordinance.

g. **Cost**

The cost of all required public notices shall be paid by the applicant in addition to all other required application fees.

Sec. 27.284. Action by Review and Decision-Making Bodies

- a. Review and decision-making bodies are authorized to take any action that is consistent with:
 1. The regulations of this zoning ordinance;
 2. Any rules and by-laws that apply to the review or decision-making body; and
 3. The notice that was given, provided that the decision-making body may zone to an intermediate classification between the current zoning and any requested zoning, may attach conditions, and may grant partial relief over what was sought, and such action shall be deemed to meet requirements of this paragraph.
- b. Review and decision-making bodies are authorized to defer action or continue a hearing in

order to receive additional information or further deliberate.

- c. Decision-making bodies are authorized to refer matters back to a review body for further deliberations or to obtain additional information.
- d. Review and decision-making bodies are authorized to defer action, continue the hearing or deny an application whenever the applicant fails to appear for a scheduled and advertised hearing or whenever the applicant fails at more than one meeting to provide the information or documentation necessary for a competent evaluation of the plan's or application's compliance with applicable regulations.

Sec. 27.285. Conditions of Approval

- a. When decision-making bodies approve applications with conditions, the conditions shall relate to a situation created or aggravated by the proposed use or development and shall be roughly proportional to the impacts of the use or development.
- b. Any conditions imposed shall comply with the following:
 1. Conditions may be imposed to mitigate any possible adverse impacts of the proposal on neighboring persons or properties, consistent with the purposes of this zoning ordinance, the goals and objectives of the comprehensive plan and state law.
 2. Conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement.
 3. Once imposed, conditions run with land and will be enforced on all present and future property owners and successors in interest.
 4. Except as otherwise expressly stated, amendments or changes to approved conditions may be approved only by following the same procedures as the original approval (i.e., conditions attached to a special land use permit or variance require the processing of a new application for a special land use permit or variance, in accordance with the procedures of [Division 10-3](#) and [Division 10-6](#).

Sec. 27.286. Burden of Proof or Persuasion

Applications shall address relevant review and decision-making criteria. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria.

Sec. 27.287. Appeals of City Council or ZBA Final Decisions

- a. Any person aggrieved by a final decision of the city council or zoning board of appeals may seek review in the Superior Court of DeKalb County within 30 days of the date of decision, as provided by law.
- b. When a petition for a writ of certiorari is filed appealing a zoning board of appeals decision, the zoning board of appeals shall be designated the respondent in certiorari and the City of Brookhaven the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent.
- c. A person is considered aggrieved for purposes of this section only if the person or their property was the subject of the action appealed from, or the person has a substantial interest in the action being appealed that is in danger of suffering special damage or injury not common to all property owners similarly situated.

DIVISION 10-2. AMENDMENTS

Sec. 27.288. Applicability

The procedures of this division apply to zoning map amendments, zoning ordinance text amendments and amendments to conditions attached to previously approved zoning map amendments.

Sec. 27.289. Authority to Initiate

Amendments to the zoning map and the text of this zoning ordinance may be initiated by the city council following a motion and a second, official action of the planning commission or by the community development director acting on behalf of the city council. In addition, amendments to the zoning map and amendments to conditions attached to previously approved zoning map amendments may be initiated upon application by the owner of the subject property or the subject property owner's authorized agent.

Sec. 27.290. Preapplication Meeting

A preapplication meeting with community development department staff is required for all owner-initiated amendment applications (see the preapplication provisions of [Sec. 27.278](#)).

Sec. 27.291. Public Information Meeting

The public information meeting requirements of [Sec. 27.279](#) apply to all owner-initiated applications for zoning map amendments.

Sec. 27.292. Application Filing

- a. Owner-initiated applications for zoning map amendments and applications for amendments to conditions attached to previously approved zoning map amendments shall be filed with the community development director.
- b. Owner-initiated applications for zoning map amendments and applications for amendments to conditions attached to previously approved zoning map amendments may be proposed with or without conditions. Conditions may include:
 1. Written conditions;
 2. Site plans, architectural renderings, elevations, photographs, or other graphic representations of the proposed development; or
 3. Any combination of written conditions and graphic representations.
- c. Any site plan filed as a proposed condition shall be prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia.
- d. No particular format is required to initiate amendments by the city council, planning commission or community development department staff. Both text amendments and map amendments initiated by the city shall be in complete form prior to the first public hearing.

Sec. 27.293. Public Hearing Notices

Notice of required public hearings shall be provided as follows (see [Sec. 27.283](#) for additional information on required newspaper, mailed and posted notices):

- a. **Newspaper Notice**
Newspaper notice is required to be published at least 15 days before but not more than 45 days before the date of the public hearings before the ~~planning commission and~~ city council for all proposals to rezone property, amend the zoning map, adopt a new zoning map, amend the text of the zoning ordinance, or amend conditions previously imposed as a condition of zoning or special land use permit.
- b. **Mailed Notice**
Notice shall be mailed to the applicant, all owners of property included within the area that is the subject of the proposed amendment and all owners of property within 250 feet of the subject

8. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.



Table 10-1 – Amendment Process (Generally)

- b. **Zoning Ordinance Text Amendments**
- The following review and approval criteria shall be used in reviewing and taking action on all zoning ordinance text amendments:
1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan; and
 2. Whether the proposed zoning ordinance text amendment corrects an error or inconsistency in the zoning ordinance, meets the challenge of a changing condition or is necessary to implement or establish policy.

Sec. 27.298. Successive Applications

An application for a zoning map amendment or an amendment to one or more conditions attached to previously approved zoning map amendments affecting all or a portion of the same property may not be submitted more than once every 24 months measured from the date of final action by the city council. The city council is authorized to waive or reduce this 24-month time interval by resolution, except that the time interval between the date of action to deny or the date that the application is withdrawn with prejudice and the date of filing of any subsequent amendment affecting the same property may not be less than 6 months.

Sec. 27.299. Modifying Conditions of Approval

Conditions attached to rezoning approvals may only be modified by city council through the map amendment process, including all requirements for fees, notices and hearings.

DIVISION 10-3. SPECIAL LAND USE PERMITS (SLUPS)

Sec. 27.300. Applicability

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

Sec. 27.301. Authority to File

Applications for special land use permit approval may be filed by the owner of the subject property or the property owner's authorized agent.

Sec. 27.302. Preapplication Meeting

A preapplication meeting is required for all special land use permits (see the preapplication provisions of [Sec. 27.278](#)).

Sec. 27.303. Public Information Meeting

The public information meeting requirements of [Sec. 27.279](#) apply to all applications for special land use permits.

Sec. 27.304. Application Filing

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

Sec. 27.305. Public Hearing Notices

Notice of required public hearings shall be provided as follows (see [Sec. 27.283](#) for additional information on required newspaper, mailed and posted notices):

Article X Review and Approval Procedures

Division 10-7 Reserved | Sec. 27.328 Review and Approval Criteria

the applicant may supply a court reporter to take down testimony at the hearing at the applicant's own expense. The zoning board of appeals may ask questions and seek clarification of any testimony or evidence presented.

- c. Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals shall act to approve the variance, approve the variance with conditions or deny the requested variance. The zoning board of appeals is also authorized to defer action on the variance or allow the applicant to withdraw the variance without prejudice. The board's final decision shall be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing.

Sec. 27.328. Review and Approval Criteria

- a. The zoning board of appeals may authorize variances from the provisions of this zoning ordinance based on consideration of one or more of the following criteria:
 1. The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements; or
 2. The variance request is based on conditions that are:
 - (a) Unique to the subject property;
 - (b) Not generally applicable to other properties in the same zoning district;
 - (c) Not the result of the subject property owner's or applicant's actions; or
 3. Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners; or
 4. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; or
 5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and/or
 6. The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.

Sec. 27.329. Successive Applications

If a variance application is denied, an application to vary the same zoning ordinance provision for the same portion of the subject property may not be resubmitted for 24 months from the date of the denial. The zoning board of appeals is authorized to waive or reduce this 24-month time interval, provided that the time interval between the date of action to deny the application and the date of filing of a subsequent variance application affecting the same property may not be less than 6 months.

Sec. 27.330. Appeals

See Sec. 27.287.

Sec. 27.331. Transfer of Variances

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

Sec. 27.332. Amending Conditions of Approval

A request for changes in conditions of approval attached to an approved variance shall be processed as a new variance application in accordance with the procedures of this division, including the requirements for fees, notices and hearings.

DIVISION 10-7. RESERVED

Sec. 27.333. to Sec. 342 Reserved

DIVISION 10-8. ADMINISTRATIVE VARIANCES

Sec. 27.343. Applicability

The community development director is authorized to approve the following administrative variances:

- a. Reduction of front or rear setback requirements by up to 10%, but not including any transitional buffer;
- b. Reduction of street side (corner lot) setback requirement in RS-100, RS-85, RS-75 and RS-60 districts by up to 5 feet on a lot that does not exceed the minimum lot width required in the subject zoning district,
- c. Reduction of interior side setback requirements by up to one foot or 5%, whichever is greater;
- d. Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to 10% as long as the reduction does not reduce the minimum requirement imposed by Chapter 7;

- e. Increase in the maximum retaining wall height by no more than 2 feet; and
- f. Reduction of the minimum retaining wall setback and distance requirements by no more than 2 feet.
- g. Reduction of minimum off-street parking and loading ratios by up to one space or 10%, whichever is greater;
- h. Reduction of minimum off-street parking ratios for any lot located within 1,000 feet of the boundary of a MARTA rapid transit station by up to 3 spaces or 25%, whichever is greater; and
- i. Modifications to lots that exceed allowed lot coverage limits, provided that:
 - 1. The existing lot coverage was lawfully established;
 - 2. The lot modifications do not result in more lot coverage than lawfully existed at the time of approval of the administrative variance; and
 - 3. Water quality and stormwater mitigation measures are provided to account for all impervious surface coverage in excess of that allowed under existing zoning.

Sec. 27.344. Authority to File

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

Sec. 27.345. Application Filing

Administrative variance applications shall be filed with the community development director.

Sec. 27.346. Posted Notice

- a. Notice (signs) shall be posted within 10 days of the date of filing an application for an administrative variance. Posted notice shall comply with all applicable provisions of [Sec. 27.283](#).
- b. Citizens and residents of the city wishing to support or oppose a request for administrative variance shall file their comments in writing with the community development director. The deadline for acceptance of comments is 15 days after notice was posted on the property.

Sec. 27.347. Director's Decision

- a. The community development director shall review each application for a administrative variance and act to approve the application, approve the application with conditions, deny the application.

- b. The community development director may not take final action to approve or deny an administrative variance until at least 15 days after the notice was posted. Any comments received with respect to the administrative variance request shall be taken into account prior to the director reaching his or her decision. All decisions shall be made in writing within 30 days of the date the application was filed unless the applicant agrees to an extension of time for the decision.

Sec. 27.348. Review and Approval Criteria

The community development director's decision to approve or deny a administrative variance shall be based on the variance review and approval criteria of [Sec. 27.328](#).



Sec. 27.349. Appeals

Final decisions on administrative variances may be appealed by any person aggrieved by the decision in accordance with the appeal procedures of [Division 10-10](#).

Sec. 27.350. Transfer

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

DIVISION 13-2. MEASUREMENT-RELATED TERMS

Sec. 27.419. Fractions and Rounding

When calculations required under this zoning ordinance result in fractions, the results shall be rounded as follows:

a. Minimum Requirements

1. When calculating minimum off-street parking requirements, any fractional result of less than one-half is rounded down to the whole number and any fractional result of one-half or more is rounded up to the whole number.
2. When a requirement other than off-street parking is expressed as a minimum requirement, any fractional result shall be rounded up to the next consecutive whole number.

b. Maximum Limits

When a regulation is expressed as a maximum limit, any fractional result shall be rounded down to the preceding whole number. For example, if a maximum limit of 3.33 parking spaces per 1,000 square feet of floor area is applied to an 8,000 square foot building, the resulting fraction of 26.64 is rounded down to 26 allowed parking spaces. This provision is not to be interpreted as allowing fractional results to be rounded down when determining compliance with percentage-based limits. For example, if maximum allowed lot coverage is 45%, a lot with 45.33% coverage is not considered to be in compliance.

Sec. 27.420. Lot Area

Lot area is measured as the total ground-level surface area contained within the property lines of a lot.

Sec. 27.421. Lot Width

Lot width is the horizontal distance between the side property lines of a lot, measured ~~along~~at the minimum front setback line.

Sec. 27.422. Lot Frontage or Street Frontage

Lot frontage is measured between side property lines of a lot along the property line that abuts the street right-of-way.

Sec. 27.423. Lot Coverage

Lot coverage is the total area of a lot covered by impervious surfaces, including principal and accessory buildings and structures, driveways, patios, parking lots and sidewalks.

Sec. 27.424. Floor Area

- a. The floor area of a principal building is the sum of the gross horizontal areas of all floors within the building, excluding garages and open porches. Floor area of principal buildings is measured from the interior face of the exterior walls of the building.
- b. The floor area of accessory buildings is measured from the exterior face of the exterior walls of the building.

Sec. 27.425. Density

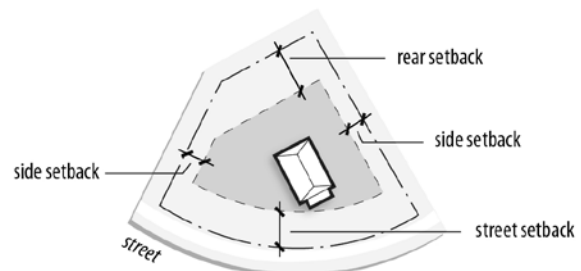
Density is measured as the number of dwelling units per acre of land area. In calculating density, public rights of way are not counted. Workforce housing units provided to meet mandatory requirements or incentive-based workforce housing provisions shall not be counted as dwelling units for purpose of calculating the maximum allowable density allowed on the subject property,

Sec. 27.426. Setbacks

a. Measurement

1. Required setbacks are measured from the applicable lot line, right-of-way, or location referred to below. Building setbacks are measured to the nearest exterior building wall. Minimum setbacks that apply to other features (parking areas, fences, storage areas) are measured from the nearest point of the area or feature for which a setback is required. Unless otherwise expressly stated, no part of any structure may be located within the street right-of-way.
2. Street (front and street-side) setbacks are measured from the actual right-of-way line of the street (other than an alley).
3. Interior side setbacks are measured from the nearest side lot line that does not abut a street.
4. Rear setbacks are measured from the rear lot line.

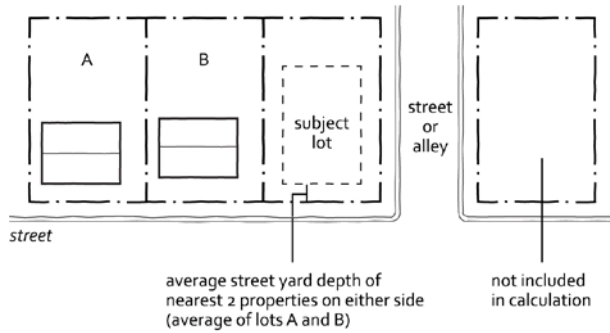
Figure 13-1. Setbacks on Curvilinear Lots



Article XIII Terminology and Measurements

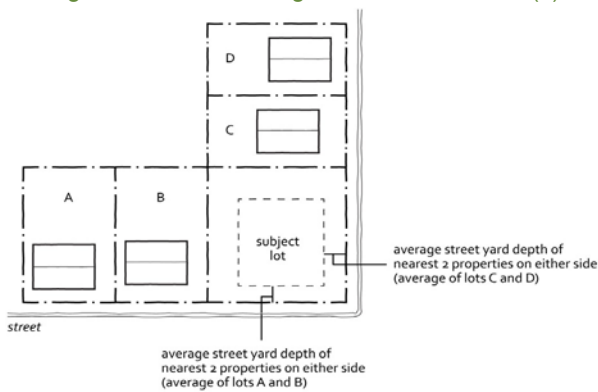
Division 13-2 Measurement-related Terms | Sec. 27.427 Build-to-Zone

Figure 13-5. Calculating Contextual Setback (2)



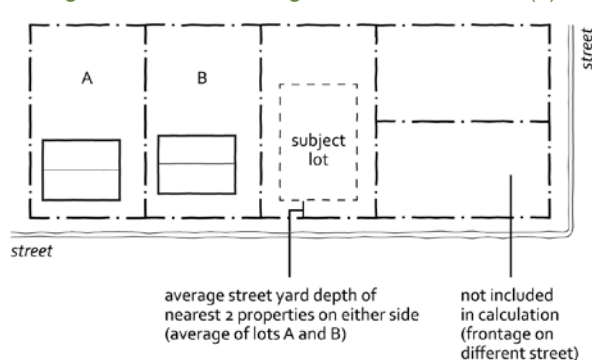
- (d) When the subject lot is a corner lot, the contextual setback provisions apply only to the side of the house containing the front door and the average street yard depth is computed on the basis of the nearest 2 lots with frontage on the same street as the subject lot (see [Figure 13-6](#)).

Figure 13-6. Calculating Contextual Setback (3)



- (e) When the subject lot abuts a corner lot with frontage on the same street, the average street yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot (see [Figure 13-7](#)).

Figure 13-7. Calculating Contextual Setback (4)



3. Limitations

- The contextual setback provisions of this section may not be used to reduce the required setback to less than 10 feet.
- The contextual setback provisions of this section may not be used to reduce the front street setback for a street-facing garage door to less than 20 feet from the back of the sidewalk or less than 20 feet from the street right-of-way.

Sec. 27.427. Build-to-Zone

- The build-to zone is the area on the lot where all or a portion of the street-facing building façade shall be located, established as a minimum and maximum setback range.
- The street-facing building façade shall be located in and extend along the length of the build-to-zone for a minimum distance equal to a percentage of the width of the lot, as required by specific provisions of this zoning ordinance. The required minimum percentage is calculated by dividing the width of the building façade located within the build-to-zone by the width of the lot. For purposes of this calculation, the width of the lot is the narrowest width of the lot within the build-to-zone.

Sec. 27.428. Height

a. Building Height

1. Measurement in Feet

- When expressed as a regulation in "feet," building height is measured from average grade along all sides of the building to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.
- Except in the /AE overlay district, chimneys, elevators, equipment penthouses, belfries, clock towers, cupolas, spires and similar non-habitable structures and features may exceed maximum building height limits that are expressed in feet, provided such features cover no more than 25% of the total roof area of the building.

2. Residential Infill and Redevelopment

- The proposed front door threshold elevation for any new detached house may not be more than 2 feet higher than the front door threshold elevation of the

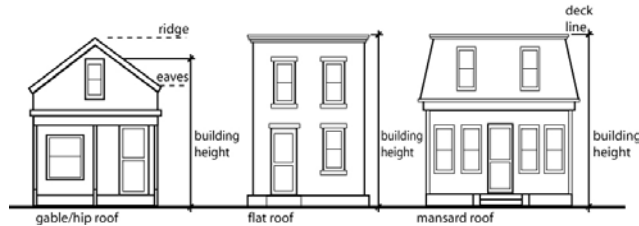
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Division 13-2 Measurement-related Terms | Sec. 27.428 Height

residential structure that existed on the lot prior to demolition. If the proposed construction would require alteration or eradication of the original threshold, then the original threshold elevation must be measured and certified by a licensed

surveyor or engineer. expressed in terms of building “stories,” headhouses, mechanical equipment normally built above the roof and not designed or used for human occupancy and roof structures that are completely open on at least 3 sides are not counted as stories. Any enclosed structure that is designed or used for human occupancy

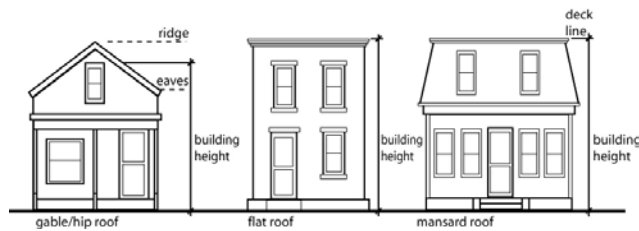
Figure 13-8. Building Height (in Feet)



surveyor or engineer.

- (b) The community development director is authorized to approve proposed front door threshold elevations for new detached houses that exceed the threshold elevation allowed by subsection 2(a) if the applicant for a building permit establishes that the elevation of the front door threshold of the proposed residential structure does not exceed the average elevation of the front door thresholds of the residential structures on both lots immediately abutting the subject lot. When using threshold height averaging, the applicant must provide the community development director with the threshold elevations, as certified by a licensed surveyor or engineer.

Figure 13-8. Building Height (in Feet)



3. Measurement in Stories

- (a) A building “story” includes any portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, is considered a story.
- (b) When building height regulations are

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is counted as a “story” if the total area of such enclosed structures exceed in the aggregate: (a) 330 square feet if the total roof area of the building is 3,300 square feet or less; or 10% of the total roof area of the building if the total roof area is greater than 3,300 square feet.

- (c) Minimum and maximum story (floor-to-floor) heights shall be met along all street facing facades and for at least 75% of the floor area of each story.
- (d) In measuring building height, stories with a floor-to-floor height of 18 feet or greater are counted as 2 stories.
- (e) The following requirements apply to all building types required to be at least 2 stories in height:
 - i. The second story floor area shall be covered and enclosed and equal at least 75% of the first story floor area;
 - ii. The second floor facade shall extend the entire width of any first floor building facade that fronts on Peachtree Road or Apple Valley Road, except for second story areas used for unenclosed or uncovered outdoor dining area, uncovered decks, uncovered balconies, unenclosed stairs and uncovered atriums; and
 - iii. The entire indoor area of the second floor shall be conditioned space (HVAC) and available for human occupancy.
- (f) Building types subject to minimum overall height limits shall meet the applicable minimum height requirement along street-facing facades for a depth of at least 30 feet into the building.
- (g) Maximum overall building height limits apply to the entire building.

b. Retaining Wall Height

Retaining wall height is measured vertically from the finished grade on the exposed side of the retaining wall to the highest point of the wall.

c. Height of Other Structures

The height of structures other than buildings and retaining walls is measured as vertical distance from the average finished grade on all sides at the base of the structure to the highest point of the structure.