

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF BROOKHAVEN
TA19-13

ORD 2019-05-07
TA19-13

**AN ORDINANCE TO AMEND CHAPTER 14, LAND DEVELOPMENT & SUBDIVISIONS, OF THE CODE OF THE
CITY OF BROOKHAVEN**

WHEREAS, Section 1.03(b)(18) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to create, alter, or abolish departments, boards, and commissions and to confer upon such boards the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same; and

WHEREAS, the Mayor and City Council find that it is necessary to alter the City construction board of appeals and the City zoning board of appeals by combining the boards into the City board of appeals.

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 14, Land Development & Subdivisions, 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Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.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

Chapter 14 - LAND DEVELOPMENT AND SUBDIVISIONS

ARTICLE I. - IN GENERAL

Sec. 14-1. - Definitions.

For the purposes of this chapter, certain terms and words are defined. Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Agricultural operations means raising, harvesting or storing of crops; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including, but not limited to, chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds.

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

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

As-built drawings means amended site plans specifying the location, dimensions, elevations, capacities and operational capabilities of public improvements, including water, sewer, road and drainage structures and stormwater management facilities as they have been constructed.

Bank (stream bank) means the sloping land that contains the stream channel and the normal flows of the stream.

Basement means a space having one-half or more of its floor-to-ceiling height below the average level of adjoining ground and with a floor-to-ceiling height of not less than six and one-half feet.

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

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

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

BNR means the board of natural resources.

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

Buffer, city, means an area of land 50 feet in width immediately adjacent to the state buffer.

Buffer, state, means an area of land 25 feet in width immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Buffer, stream, means the state buffer and the city buffer as measured horizontally from the top of the stream bank.

Buildable area means the area of a lot remaining after all setback requirements, including buffer areas, have been met.

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

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

Building setback line means the minimum horizontal distance required between the public right-of-way or the utility easement abutting a private street and the principal building or structure on a lot or any projection thereof except projections that are authorized exceptions to building set, back line requirements in chapter 27 and any zoning conditions approved by the city council pursuant thereto. The size of the utility easements for a private street shall be equal to the required size of the public right-of-way and shall not be any smaller in width or length than what would be required for a public right-of-way.

Caliper means the diameter of a tree trunk, applied only to new or replacement plantings, measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

Certified personnel means a person who has successfully completed the appropriate certification course approved by the state soil and water conservation commission.

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

Channel protection means the protection of stream channels, in accordance with the state stormwater management manual, from bank and bed erosion and degradation by preserving or restoring the applicable stream buffer, by providing extended detention, and by integrating erosion prevention measures such as energy dissipation and velocity control.

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

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

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

Crosswalk means a right-of-way within a block dedicated to public use, ten feet or more in width, intended primarily for pedestrians and from which motor-propelled vehicles are excluded, and which is designed to improve or provide access to adjacent roads or lots.

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

DNR means the department of natural resources of the state.

Deck, elevated, means an open, unenclosed structure elevated above pervious natural grade that is attached to the primary structure.

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

Design professional means a professional licensed by the state in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control, Inc.

Development means all activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy, or habitation, other than for agricultural purposes devoted strictly to the cultivation of land, dairying or animal husbandry. Such activities include, but are not limited to, land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as, but not limited to, streets, driveways or parking area, water sewer mains, stormwater drainage facilities, sidewalks or other structures permanently placed in or on the property. Where appropriate to the context, development also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as in interrelated whole, whether simultaneously or in phases.

Development permit means any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the incorporated limits of the city.

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

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

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

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

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

Elevated building means a nonbasement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

EPD means the environmental protection division of the state department of natural resources.

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

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

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

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

Final stabilization means that all soil-disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

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

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the usual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

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

Georgia Stormwater Management Manual means the manual adopted by the city council that provides the criteria, technical design specifications and standards for the proper implementation of the requirements of this chapter.

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

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

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

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

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

Intermediate regional flood (IRF) means a 100-year frequency flood as defined on the flood hazard map which has a probability of occurring once every 100 years or having a one percent chance of being equaled or exceeded in any given year. (Also known as the base flood, or 100-year flood.)

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

Land-disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in section 14-29(b)(3)e.

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

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

Local issuing authority means the city council.

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

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

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

Manufactured home means a new or used structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC section 5401 et seq.

Minor site work permit means a development permit for minor activities including, but not limited to, increases in impervious area, replacement of paving/concrete, paving system installation, driveway expansion, landscaping, retaining walls less than four feet in height, land disturbance less than 5,000 square feet, and drainage improvements as determined by the director of community development or his designee.

Multi-use trail means a recreation corridor intended for the use of non-motorized forms of transportation such as, but not limited to, walking, running, bicycles, in-line skates, as identified in a master plan for multi-use trails in city approved by the city council.

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

New construction means any structure for which the permitted date of construction commenced after adoption of the ordinance from which this chapter is derived.

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

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

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

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

Operator means the party or parties that have:

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

Outfall means the location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is receiving water on site, becomes a point source discharging into that receiving water.

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

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

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

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

Phase or *phased* means subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

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

Properly designed means designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia Manual" published by the Georgia Soil and Water Conservation commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

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

Public works director means the director of the public works department or designee.

Reasonable access means a 15-foot access easement from the public right-of-way to the stormwater management facility and a ten-foot drainage and maintenance easement on all four sides of the stormwater management facility.

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

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

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

Residential shall have the same meaning as given in chapter 27, except that it shall not include apartments.

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

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

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

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

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

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

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

SS&WCC means the state soil and water conservation commission.

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

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

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation except as defined in O.C.G.A. § 12-7-17.

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

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

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

Stormwater management manual means the Georgia Stormwater Management Manual.

Stream means state waters, and natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, and includes, but is not limited to, all natural or manmade streams depicted on the 1995 city Geographic Information System (GIS) map maintained by the city GIS director. Stream starts at the location of a spring, seep or groundwater outflow that sustains stream flow. No stream shall be excluded from this definition due to its failure to be identified on the GIS map. Field verification shall be performed to make a final determination as to the existence of a stream where a dispute exists. Such field verification may be performed by the director.

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

Street, private, means an access way similar to and having the same function as a public street, providing access to more than one property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in article VII, division 3, subdivision II of this chapter.

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

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. The term "structure" does not include telephone poles and utility boxes.

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

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

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

SWCD means the Soil and Water Conservation District within which the city is located.

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

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

Trout streams means all streams or portions of streams within the watershed as designated by the game and fish division of the state department of natural resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.

Trout waters, first order, means streams into which no other streams flow except springs.

Trout waters, primary, means streams or waters supporting a self-sustaining population of rainbow, brown or brook trout.

Trout waters, secondary, means streams or waters in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year.

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

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

Vegetative erosion and sedimentation control measures means measures for the stabilization of erodible or sediment-producing areas by: covering the soil with permanent seeding, sprigging or planting, producing long-term vegetative cover; temporary seeding, producing short-term vegetative cover; or sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

Watercourse means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

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

Watershed means the land area that drains into a particular stream.

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

(Ord. No. 2014-12-04, § 1(14-1), 12-16-2014; Ord. No. 2017-08-07, § I, 8-22-2017; Ord. No. 2018-05-04, § I, 5-22-2018)

Secs. 14-2—14-20. - Reserved.

ARTICLE II. - ENVIRONMENTAL CONTROL

Sec. 14-21. - Purposes.

- (a) It is the purpose of this article to establish public policies for the protection of the natural environment and to establish requirements, standards and procedures for land development. The public policy objective of protecting the natural environment is to be achieved by:
 - (1) Regulating the alteration of land and topography.
 - (2) Regulating the removal and requiring the replacement of certain vegetation.
 - (3) Requiring erosion control and sedimentation control.
 - (4) Protecting city streams and floodplains from substantial alteration of their natural functions and from sediment and debris accumulation.
 - (5) Specifying standards for drainage system design.
 - (6) Assuring the continuous and efficient operation of the drainage system.
 - (7) Protecting the water quality within intermittent and perennial streams throughout city.
- (b) It is the city's intent that land development be accomplished in conformity with the public policy statements. To that end, the plans required under applicable provisions of this article shall be reviewed by the city to enable a full exchange of information between the city and the applicant as

to the city's public policies for land development. However, these policies shall not be used as a control or regulatory mechanism nor be construed as land development standards enforceable under applicable provisions of this article.

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

(Ord. No. 2014-12-05, § 1(14-28), 12-16-2014)

Sec. 14-22. - Scope and applicability.

- (a) The provisions of this article shall apply to all development activity within the city.
- (b) For purposes of this section, a valid and complete application for a land disturbance permit shall consist of the following:
 - (1) Four copies of complete civil plans, that include a site plan, a grading and drainage plan, a utility plan, a soil erosion and sedimentation control plan, a landscape plan, and a tree survey;
 - (2) Two copies of the hydrology report;
 - (3) An application signed by the owner of the property, or a completed indemnification agreement signed by the owner of the property; and
 - (4) Payment of the appropriate development review application fee.

(Ord. No. 2014-12-05, § 1(14-29), 12-16-2014)

Sec. 14-23. - Administration and enforcement generally.

The city shall administer and enforce the provisions of this article as follows:

- (1) The community development director is designated to administer and enforce the grading, vegetation, erosion control, sedimentation control, drainage and water quality provisions of this article for all development and construction projects with the following duties and responsibilities:
 - a. Review all development permits to ensure that the permit requirements of this article have been satisfied;
 - b. Advise the applicant when additional federal or state permits may be required, and if specific federal or state permits are known to be required, that copies of such permits be provided and maintained on file with the development permit; and
 - c. Notify adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) The community development director shall administer and enforce those provisions of this article that apply to developed and occupied areas and to property in an undeveloped state affecting city responsibility for maintenance of the storm drainage system. The community development director shall ensure that maintenance is provided within any altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.
- (3) All permits shall be in compliance with all of the terms and conditions of all applicable zoning, special land use permit, variance, and special exception cases.

(Ord. No. 2014-12-05, § 1(14-31), 12-16-2014; Ord. No. 2017-08-07, § I, 8-22-2017)

Sec. 14-24. - Inspection; right of entry.

- (a) Upon presentation of city identification to the applicant, contractor, owner, owner's agent, operator or occupants, city employees may enter during all reasonable hours any property under proposed or existing development or construction. These employees may make inspections of the

facilities for the purpose of determining plan requirements or compliance with all ordinance provisions.

- (b) All new developments and redevelopments shall execute an inspection and maintenance agreement unless an on-site stormwater management facility or practice is dedicated to and accepted by the city. The applicant shall execute an easement and an inspection and maintenance agreement that will bind all subsequent owners of land served by an on-site stormwater management facility or practice.
- (c) City employees may inspect any drainage system within or outside of an existing drainage easement. All stormwater management facilities located on private property, whether dedicated to the city or not, shall be accessible at all times for city inspection. Where stormwater management facilities are accepted by the city for maintenance, public access easements shall be provided. Reasonable access shall be provided to all drainage easements for inspection and maintenance functions.
- (d) The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant shall authorize the community development director to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.
 - (1) Inspection warrants may be issued by municipal court when all of the following conditions are met:
 - a. The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and
 - b. The issuing judge determines that the issuance of the warrant is authorized by law.
 - (2) The inspection warrant shall be validly issued only if it meets all of the following requirements:
 - a. The warrant is attached to the affidavit required to be made in order to obtain the warrant;
 - b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection;
 - c. The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and
 - d. The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

(Ord. No. 2014-12-05, § 1(14-32), 12-16-2014)

Sec. 14-25. - Emergency maintenance operations.

- (a) The community development director or the public works director may conduct emergency maintenance operations on private land and on drainage systems where emergency conditions exist. Emergency maintenance shall constitute the removal of trees and other debris, which in the judgment of the community development director or the public works director create a condition potentially injurious to life, property and the public road system.
 - (b) Emergency maintenance conducted on any drainage system shall not be construed as constituting a continuing maintenance obligation on the part of the city.
- (Ord. No. 2014-12-05, § 1(14-33), 12-16-2014)

Sec. 14-26. - Issuance of notice of violation; variances; time period for correction; appeals.

- (a) *Notice of violation.* Whenever the community development director determines that development activity or inactivity on a property does not comply with the approved development and construction plans, that approved and required erosion and sedimentation control facilities or devices have been altered, damaged or destroyed, or that any other activities violate the provisions of this article, the community development director shall issue a notice of violation. Whenever the community development director determines that the drainage system has been unlawfully altered, causing inadequate drainage, the community development director or designee shall issue a notice of violation. The provisions of this section shall be in addition to any other penalty provisions applicable to this article. The notice of violation of the provisions of this article or of any rule or regulation adopted pursuant hereto shall be addressed to the owner of the property or the owner's agent and to the person, tenant, firm, corporation, property owner or property owner's agent found to be violating the provisions of this article and shall:
- (1) Be in writing;
 - (2) Include a description of the property sufficient for identification of where the violation has occurred;
 - (3) List the specific provisions of this article which have been violated;
 - (4) State that, if these repairs, construction or alterations are not completed within a reasonable time period specified by the inspector, summons shall be issued for the person, firm, corporation, owner, or owner's agent to appear in municipal court. However, in the judgment of the community development director, where the violation is willful, in wanton disregard of the provisions of this article or constitutes a public health and safety hazard or endangers the ecosystem, the community development director may issue a court summons in lieu of a notice of violation.
- (b) *Penalty.* It is unlawful for any person, firm or corporation to do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended. Any person, firm or corporation that shall do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon conviction of a violation in municipal court shall be subject to a fine or imprisonment in accordance with section 1-11. Where any offense or violation continues from day-to-day, each day's continuance thereof shall be deemed a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this article exists, and any architect, builder, engineer, contractor, or any other agent of the owner, or any tenant, who commits, or assists in the commission of any violation, shall be guilty of a separate offense.
- (c) *Variances.*
- (1) Except as further limited herein, an applicant may request a variance from the terms of the requirements of sections 14-28, 14-29, 14-78, 14-79 and article V of this chapter. The community development director shall have no power to consider or to grant variances which are the responsibility of the director of the EPD pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations. Where variances involving the same project are requested from both the director of the EPD and the community development director, the community development director shall take no action on any such request for variance until the director of the EPD grants the variance or otherwise approves the request pending before the EPD. Receiving a variance from the director of the EPD does not obligate the community development director to permit the project to proceed if the project does not also meet all the other requirements of this article. No variance from the provisions of this chapter shall be authorized except as specifically authorized in this section or specifically authorized in another section of this chapter.

- (2) Applications for variances authorized in subsection (c)(1) of this section shall be made in writing to the community development director and shall contain all of those materials and documents required by the community development director that are necessary to demonstrate that the request meets the criteria for granting variances.
 - (3) In considering a request for a variance to the terms of this article authorized in subsection (c)(1) of this section, the community development director shall use all of the following criteria:
 - a. The request, while not strictly meeting the requirements of this chapter, will in the judgment of the community development director be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the community development director shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 - 1. Stream bank or soil stabilization;
 - 2. Trapping of sediment in surface runoff;
 - 3. Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 - 4. Terrestrial habitat, food chain, and migration corridor;
 - 5. Buffering of flood flows;
 - 6. Infiltration of surface runoff;
 - 7. Noise and visual buffers;
 - 8. Downstream water quality; and
 - 9. Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
 - b. By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
 - c. The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
 - d. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
 - e. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an extreme hardship, provided the hardship was not created by the owner.
 - (4) The community development director's decision shall be in writing, shall state the basis for the decision, and shall be made no more than 30 days following application.
- (d) *Appeals.*
- (1) *Generally.* Appeals shall be made to the ~~zoning board of appeals~~board of appeals, as established in chapter 27 of this Code, and shall be administered in accordance with the notice requirements, criteria and procedural requirements set forth therein, except as otherwise specified below.
 - (2) *Basis for appeal.* Whenever the community development director approves a variance pursuant to subsection (c) of this section and it is alleged that the variance request did not meet the standards of the section, or where the community development director denies a variance request pursuant to subsection (c) of this section and it is alleged that the variance request did meet the standards of the section, or where it is alleged by the applicant that there is an error in any final order, requirement, or final decision made by an administrative

official based on or made in the interpretation or enforcement of this chapter, the aggrieved person, or any city official, department, board or agency affected by the order, requirement or decision, shall have the right to appeal the final order, requirement or decision to the ~~zoning board of appeals~~board of appeals.

- (3) *Initiation of appeal.* Appeals shall be made by filing with the secretary of the ~~zoning board of appeals~~board of appeals an application for appeal specifying the grounds thereof, within 30 days after the action appealed from was taken.
- (4) *Appeal stays all legal proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the ~~zoning board of appeals~~board of appeals, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the superior court of the county on notice to the officer from whom the appeal is taken and on due cause shown.
- (5) *Time and notice of hearing.* The ~~zoning board of appeals~~board of appeals shall fix a reasonable time for hearing of the appeal and shall give notice thereof pursuant to the requirements of section 27-1666.
- (6) *Decision of the ~~zoning board of appeals~~board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the ~~zoning board of appeals~~board of appeals shall make a determination on each appeal. The ~~zoning board of appeals~~board of appeals shall decide the appeal within a reasonable time but in no event more than 60 days from the date of the final hearing. An appeal shall be sustained only upon an express finding by the ~~zoning board of appeals~~board of appeals that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the ~~zoning board of appeals~~board of appeals may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.
- (e) *Appeals of final decisions.* All appeals of final decisions of the ~~zoning board of appeals~~board of appeals under the provisions of this article shall be as follows:
 - (1) Any person aggrieved by a final decision of the ~~zoning board of appeals~~board of appeals, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court of the county for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within 30 days after the final decision of the ~~zoning board of appeals~~board of appeals is rendered.
 - (2) In any such petition filed, the ~~zoning board of appeals~~board of appeals shall be designated the respondent in certiorari and city shall be designated the defendant in certiorari. The secretary of the ~~zoning board of appeals~~board of appeals shall be authorized to acknowledge service of a copy of the petition and writ for the ~~zoning board of appeals~~board of appeals as respondent. Service upon the city as defendant shall be as otherwise provided by law. Within the time prescribed by law, the ~~zoning board of appeals~~board of appeals shall cause to be filed with the clerk of the county superior court a duly certified record of the proceedings had before the board, including a transcript of the evidence heard before it, if any, and the decision of the board.
- (f) *Private agreements, covenants, and restrictions.* This article is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this article are more restrictive or impose higher standards

or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this article shall govern. Further, where there is a conflict between any standard or requirement within this chapter, or between the standards of this chapter and any other provision of the Code, the more restrictive standard or requirement shall apply.

(Ord. No. 2014-12-05, § 1(14-34), 12-16-2014)

Sec. 14-27. - Plan submission requirements.

- (a) All site plans submitted in accordance with applicable provisions of this article shall meet the requirements for their preparation and shall also provide information to enable a determination to be made by the community development director as to plan conformance with the public policy statements of this article.
- (b) All persons proposing developments, redevelopments or construction shall submit site plans to the community development director illustrating the means by which conformance with policy provisions may be achieved and illustrating compliance with applicable development standards before issuance of a development or building permit.
- (c) Electric, telephone and gas utilities shall submit plans and obtain a development permit only for major transmission installations located within rights-of-way or easements devoted exclusively to installations of utility facilities. Individual single-family lots within approved subdivisions shall be exempt from these requirements for new residential construction with the exception that individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain shall be submitted for review and approval in accordance with this article and other applicable provisions of the Code. Owners and developers of individual single-family lots shall be required to use best management practices to prevent sedimentation from leaving the site.
- (d) Grading, erosion control, sedimentation control, water quality control and drainage plans shall be prepared under the supervision of a currently state-registered professional engineer, architect or landscape architect, or combination as may be appropriate for project planning and design. Tree protection plans shall be prepared in accordance with the requirements specified in article III of this chapter. When the hydrologic engineering analysis includes applications of the principles for flood routing, super critical flow, high energy dissipation or conversion, backwater curves, floodplain studies or other advanced hydrologic engineering techniques, the analysis shall be made by a currently state-registered professional engineer proficient in hydrology.
- (e) Site plans and supporting documentation to show conformance with this article shall be submitted in accordance with the applicable provisions of chapter 27 and all conditions of zoning and shall include the following:
 - (1) Evidence of conformance with the requirements of this article for grading, vegetation alteration, erosion control, sedimentation control, water quality control and drainage system alteration or development. Grading plans shall illustrate existing and proposed contours to the two-foot interval at a minimum; golf courses and other open space areas shall be exempt from this requirement but general grading plans for golf courses and other open space areas shall be submitted. Water quality plans shall include the identification of existing wetland areas within the development site and shall demonstrate use of the stormwater quality site development review tool. Related plans shall show locations of structures, roads, surface drainage, existing and proposed drainage conduits, buffer areas, stream buffers, state buffer zones, and proposed alterations to the existing site;
 - (2) A hydrologic engineering analysis of stormwater runoff under pre-developed and post-developed site conditions and a detailed evaluation of the projected effects on upstream and downstream properties within the affected drainage basin. In determining downstream effects

from stormwater management structures, BMPs, and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where the proposed development represents less than ten percent of the total watershed. This analysis shall include a determination of the culvert, floodplain and channel cross-section area required to carry the affected runoff at the intermediate regional flood stage level. The requirement for a complete hydrologic study may be waived in writing by the community development director for any development where the site plan submitted illustrates predeveloped or proposed improvements sufficient to ensure compliance with applicable provisions of this article;

- (3) Delineation of the boundaries, contour elevations and floodways of the intermediate regional floodplain for streams draining in excess of 100 acres. Unless shown on the flood hazard map, the intermediate regional flood contour elevations and floodways shall be established by engineering field control surveys and then be added to the flood hazard map upon approval of the community development director and be clearly designated on each site plan, subdivision plat and construction plan. The actual building site in relation to the intermediate regional floodplain boundaries shall be shown; the same information shall be indicated by the seller to the purchaser of each property so affected. The elevation contours representing the intermediate regional flood conditions shall be shown when they are located outside established ditch banks. A benchmark suitable for determining intermediate regional flood elevations shall be established;
 - (4) The projected sequence of work represented by the grading, vegetation, erosion control, sedimentation control, water quality control and drainage plans as related to other major items of construction;
 - (5) Upon development project completion, location, size and invert elevations of piped segments of the storm drainage system, of control weirs, BMPs and water surface elevations and volumes in detention ponds shall be shown on the final plat for a subdivision, and on a final plan for other developments which shall be submitted to the community development director prior to approval. The currently state-registered professional engineer, architect or landscape architect reviewing the construction shall provide a certificate that the development is in substantial compliance with approved plans. As-built elevation certifications prepared by currently state-registered land surveyors or currently state-registered professional engineers for all developments, including fill, allowed within a floodprone area, shall be submitted to the community development director; and
 - (6) A separate tree protection plan in conformance with the requirements of this article.
- (Ord. No. 2014-12-05, § 1(14-35), 12-16-2014)

Sec. 14-28. - Grading.

(a) *Policies.* It is declared to be public policy to:

- (1) Encourage the design of residential grading plans to provide natural appearance of land contours and to provide ease of use in public areas.
- (2) Minimize the adverse effects of land clearance and grading upon existing vegetation.
- (3) Minimize the adverse effects of land clearance and grading upon the drainage system by strict erosion control and sedimentation control measures.
- (4) Minimize erosion and shear failure potential by encouraging limited cutting and filling.

(b) *Standards.*

- (1) All grading operations shall be conducted in compliance with the approved site plans.
- (2) Before beginning construction activity, the intermediate regional floodplain elevation contours shall be identified on the property by staking or other identifying mechanisms no less than every 100 feet, and shall be identifiable throughout project development.

- (3) Finish grade slopes on residential projects and lots shall not be steeper than three-to-one, unless absolutely impractical due to vegetation, topography, or soil conditions. Three-to-one finish grade slopes shall transition to two-to-one slopes at all perpendicular stream crossings.
 - (4) Large-scale general grading shall include installation of approved soil and erosion control measures and be limited to phases approved by the community development director and completed prior to commencing building construction.
 - (5) Prohibit grading and filling in floodplains, except for the construction and maintenance of perpendicular crossings of public utilities, drainage conveyances, roadways, sidewalks, and multi-purpose trails constructed in accordance with city design standards and specifications. Any variance from the requirements of this subsection shall be in accordance with the requirements of section 14-26 and shall comply with the requirements stipulated within article VIII of this chapter, floodplain management.
 - (6) The burying, piling, or concealing in any way of construction waste is prohibited, except where permitted within an M-2 (Industrial) District, as defined in chapter 27, and by a permit issued by the state department of natural resources, environmental protection division.
- (Ord. No. 2014-12-05, § 1(14-37), 12-16-2014)

Sec. 14-29. - Soil erosion and sedimentation control.

(a) *Policies.* It is declared to be public policy to:

- (1) Minimize the removal of vegetation;
- (2) Minimize the exposure of bare earth to precipitation by encouraging the scheduling of land development in increments of workable size which can be completed within a single construction season or within a time period compatible with the type and size of the project;
- (3) Provide for the reestablishment of vegetation within a reasonable period following completion of final grading and utility installation;
- (4) Give priority to the paving of streets, parking lots and other areas within a reasonable time following completion of final grading; and
- (5) Encourage the use of erosion control and sedimentation techniques found in the manual for erosion and sedimentation control in the state, as published by the state soil and water conservation commission.

(b) *Standards.*

- (1) *General requirements.* Any land-disturbing activity permitted under this chapter shall be carried out in accordance with the Georgia Erosion and Sedimentation Act of 1975, as amended; this chapter; and the permit conditions specified by the community development director.
- (2) *Minimum requirements.* Nothing contained in state law or this chapter shall prevent the issuing authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements contained in this section or in state law.
- (3) *Exemptions.* This section shall apply to any land-disturbing activity undertaken by any person on any land except for the following:
 - a. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, a part of the Georgia Surface Mine Act of 1968;
 - b. Granite quarrying and land clearing for such quarrying;
 - c. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
 - d. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned

disturbance of equal to or greater than one acre and not otherwise exempted under this section; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in subsection (b)(4) of this section. For single-family residence construction covered by the provisions of this section, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to article 2 of chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the community development department may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b)(4) of this section and the buffer zones provided by this section shall be enforced by the development department;

- e. Agricultural operations;
- f. Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections (b)(4)c.15 and 16 of this section, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- g. Any project carried out under the technical supervision of the natural resources conservation service of the federal department of agriculture;
- h. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this section, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent city from regulating any such project which is not specifically exempted by subsections (b)(3)a—g, i, or j of this section;
- i. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the state highway authority, or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any city or municipality; provided, however, that construction or maintenance projects of department of transportation or state tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.2; except where the department of transportation, the state highway authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a

copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

- j. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
 - k. Any public water system reservoir.
- (4) *Minimum requirement for soil erosion and control and sedimentation control using best management practices.*
- a. *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities that are not exempted by this chapter shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosions and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsections (b)(4)b and c of this section and any other applicable provision of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, stormwater management facilities, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity in accordance with the requirements of this article and the NPDES general permit. The community development director may require that land disturbance activity be phased. Soil erosion and sedimentation control plans shall address appropriate measures to effectively control soil erosion during successive phases of construction.
 - b. *Minimum requirements.*
 - 1. Best management practices as set forth in subsections (b)(4)b and c of this section shall be required for all land-disturbing activities. Proper design by phases, installation and maintenance of best management practices shall constitute a complete defense to any action by the director of the environmental protection division (EPD) or to any other allegation of noncompliance with subsection (b)(4)b.2 of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act. As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design

specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).

2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the EPD. This subsection shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
 3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such failure occurs.
 4. The director of the EPD may require, in accordance with regulations adopted by the BNR, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
- c. *Rules and regulations governing land-disturbing activities.* The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, at a minimum, protections at least as stringent as the state general permit; and best management practices, including conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the state soil and water conservation commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 2. Cut-fill operations shall be kept to a minimum;
 3. Development plans shall conform to topography and soil type so as to create the lowest practical erosion potential;
 4. Whenever feasible, natural vegetation shall be retained, protected and supplemented as provided in articles III and V of this chapter;
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 6. Disturbed soil shall be stabilized as quickly as practicable;
 7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 9. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area

is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;

10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
11. Cuts and fills shall not endanger adjoining property;
12. Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
13. Grading equipment shall cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediment on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(4)b.2 of this section;
15. Except as provided in subsection (b)(4)c.16 of this section, there is established a 25-foot state buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director of the EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director of the EPD pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; for which groundwater is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of article 5, chapter 5 of title 12, the Georgia Water Quality Control Act, O.C.G.A. § 12-5-5 et seq., shall remain in force unless a variance is granted by the director of the EPD as provided in this subsection. The following requirements shall apply to any such buffer:
 - (i) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quality to keep shade on the stream bed; and
 - (ii) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not

more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- A. Stream crossings for water lines; or
- B. Stream crossings for sewer lines;

16. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to article 2 of chapter 5 of title 12, the Georgia Water Quality Control Act, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the BNR, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director of the EPD may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

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

d. *Land disturbance resulting in injury to property of another.* The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.

(5) *Application/permit process.*

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

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

b. *Application requirements.*

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of city without first obtaining a permit from the community development department to perform such activity, and providing a copy of the notice of intent, if applicable, to the EPD.
2. The application for a permit shall be submitted to the community development department and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, at a minimum, the data specified in subsection (b)(5)c of this section. Applications for a permit will not be accepted unless accompanied by four copies of the applicant's soil erosions and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD rule 391-3-7-.10 (Ga. Comp. Rules and Regs. 391-3-7-.10).
3. A permitting fee, as determined by the city council shall be charged for each acre or fraction thereof in the project area.
4. In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a), half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
5. Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A district shall approve or disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the community development department. No permit will be issued unless the plan has been approved by the district, and any variances required by subsection (b)(4)c.15 and 16 of this section and bonding if required by subsection (b)(5)b.7 of this section have been obtained. Such review will not be required if city and the district enter into an agreement which allows city to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.
6. If a permit applicant has had two or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the community development department may deny the permit application.

7. The community development department may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the city manager may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- c. *Plan requirements.*
1. Plans must be prepared to meet the minimum requirements as contained in subsection (b)(4)b and c of this section, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is incorporated by reference into this chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
 2. Data required for the site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.
- d. *Permits.*
1. Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the community development department of a completed application, provided variances and bonding are obtained, where necessary; no permit may be issued unless all applicable fees have been paid.
 2. No permit shall be issued by the community development department unless the erosion and sedimentation control plan has been approved by the district and the community development department has affirmatively determined that the plan is in compliance with this chapter, any variances required by subsection (b)(4)c.15 and 16 of this section are obtained, bonding requirements, if necessary, as per subsection (b)(5)b.7 of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of city are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 3. Any land-disturbing activity by the governing authority shall be subject to the same requirements of this section, and any other ordinances relating to land development as are applied to private persons, and the community development director shall enforce such requirements upon the governing authority.
 4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.

5. The permit may be suspended, revoked, or modified by city, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 6. No permit shall be issued until the applicant files documents with the community development department demonstrating compliance with all applicable local, state and federal requirements.
 7. A development permit shall be valid for two years from its issuance subject to the following provisions:
 - (i) If the work authorized in any development permit has not begun within 90 days from the date of issuance thereof, the permit shall expire.
 - (ii) If the work described in any development permit has not been substantially completed within two years of the date of issuance thereof, the permit shall expire.
 - (iii) Written notice of the expiration shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed until a new development permit has been obtained.
 - (iv) The city engineer is authorized to grant one written extension of a development permit for a period of not more than 90 days. The extension shall be requested in writing and justifiable cause demonstrated.
- (6) *Inspection and enforcement.*
- a. The community development department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the city shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbance activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this section, a written notice to comply shall be served upon that person by the community development department. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this section.
 - b. The community development department shall have the power to conduct such investigations as may reasonably be necessary to carry out duties as prescribed in this section, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
 - c. No person shall refuse entry or access to any authorized representative or agent of the city, the commission, the district, or the division who requests entry for the purposes of

inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

- d. The district or the commission or both shall semi-annually review the actions of the city. The district or the commission or both may provide technical assistance to city for the purpose of improving the effectiveness of the city's erosion and sedimentation control program. The district or the commission shall notify the division and request investigation by the division if the city's program is found to be deficient or ineffective.
- e. The division may periodically review the actions of the city which has been certified as a local issuing authority pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but not be limited to, review of the administration and enforcement of city's ordinances and review of conformance with an agreement, if any, between the district and city. If such review indicates that city has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the city governing authority in writing. Upon receipt of the notification, the governing authority shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the city does not take necessary action within 90 days after notification by the division, the division may revoke the certification of city as a local issuing authority.

(7) *Penalties and incentives.*

- a. *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining the permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within unincorporated city.
- b. *Stop work orders.* Upon notice from the community development department or other city-authorized representative, work on any project that is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.
 - 1. For the first and second violations of the provisions of this section on a site, the community development department shall issue a written notice of violation. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the community development department shall issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided that if the violation presents an imminent threat to public health or waters of the state, the community development department shall issue an immediate stop work order in lieu of a warning.
 - 2. For a third and each subsequent violation on a site, the community development department shall issue an immediate stop work order; and
 - 3. All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 - 4. When a violation in the form of land disturbance without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the community development department, have been or are being discharged into state waters and where best management practices have not been properly designed,

installed, and maintained, a stop work order shall be issued by the community development department. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- c. *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served by the community development department upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection (b)(5)b.7 of this section. The city manager may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
 - d. *Monetary penalties.* Any person who violates any provisions of this section, or any permit condition or limitation established pursuant to this section, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the community development department issued as provided in this section shall be liable for a civil penalty not to exceed \$2,500.00 per day, or the maximum amount authorized by section 1-11. Notwithstanding any limitation of law as to penalties which can be assessed for violations of city ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought under city ordinances approved under this section shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation; however the maximum assessment shall not exceed the amount authorized by section 1-11. Each day during which violation or failure or refusal to comply continues shall be a separate violation.
- (8) *Education and certification.*
- a. Persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
 - b. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in charge of erosion and sedimentation control activities on behalf of the entity or person; the persons shall meet the applicable education or training certification requirements developed by the commission, and maintain evidence of the certification present whenever land-disturbing activities are conducted on the site. A project shall herein be defined as any land-disturbance site, or multiple sites within a larger common plan of development or sale, permitted by an owner or operator for compliance with the state general permit.
 - c. Persons or entities involved in projects not requiring a state general permit, but otherwise requiring certified personnel on site, may contract with certified persons to meet the requirements of this section.

- d. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(4), but shall not be required to meet any educational requirements that exceed those specified in the paragraph.

(9) *Administrative appeal, judicial review.*

- a. *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion and sediment control plan, or that the holder is in violation of permit conditions shall entitle the person submitting the plan or holding the permit to an appeal before the ~~zoning board of appeals~~board of appeals pursuant to the procedures and standards set forth in section 14-26(d).
- b. *Judicial review.* Any person aggrieved by administrative appeals from a decision or order of the ~~zoning board of appeals~~board of appeals authorized by subsection (b)(9)a of this section shall be as provided for in section 14-26(d).

(10) *Liability.*

- a. Neither the approval of a plan under the provisions of this section nor the compliance with provisions of this section shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon city, the district, its officers or employees for damage to any person or property.
- b. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.
- c. No provision of this section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(Ord. No. 2014-12-05, § 1(14-38), 12-16-2014; Ord. No. 2017-08-07, § I, 8-22-2017; Ord. No. 2018-03-06, § I, 3-27-2018)

Secs. 14-30—14-46. - Reserved.

ARTICLE III. - TREE PRESERVATION AND MAINTENANCE

Sec. 14-47. - Purpose and intent; applicability.

- (a) *Purpose.* The purpose and intent of this article is to protect the rights of property owners and to facilitate and promote canopy preservation and tree replacement as an integral part of the land development and construction process in the city with the goal of maintaining a sustainable tree canopy. The aesthetics of urban forests as well as the many environmental benefits provide both economic and ecological vitality to the city and its citizens.
- (b) *Findings.* The citizens and their many communities enjoy the following benefits that can be directly attributed to our trees:
 - (1) Trees produce oxygen, which is essential to the well-being of all animal life, including humans.
 - (2) Trees help to reduce the amounts of airborne pollutants. For example, trees remove carbon dioxide which is a major environmental concern due to its current high levels.
 - (3) Trees are critical in cooling the urban "heat island" effect and help moderate our air temperature in general to provide us with a more comfortable environment.

- (4) Trees and their foliage intercept dust and particulate matter, thereby helping to purify our air and limiting health risks.
- (5) Trees and their root systems reduce soil erosion and stormwater runoff. This decreases sedimentation problems and improves water quality.
- (6) Trees provide food and shelter for desirable urban wildlife.
- (7) Trees provide screening which in turn aids in the reduction of noise and glare.
- (8) Trees provide scenic amenities and shade to soften the harshness of city buildings and streets. They are aesthetically pleasing to all that view them.
- (9) Trees can enhance the natural functions of streams and related buffers. In furtherance of its purpose and intent, this article is designed to:
 - a. Protect specimen trees and historical trees in a manner consistent with this article. A link to the Georgia Urban Forest Council is provided where a map of state landmark and historic trees can be found: <http://www.gufc.org/programs/landmark-and-historic-tree/> .
 - b. Provide standards for the preservation of trees as a part of the land development process. This includes discouraging clear cutting and mass grading of land that results in the loss of mature trees.
 - c. Provide standards for ecologically appropriate replanting when tree loss does occur.
 - d. Protect trees during construction, including the construction of public facilities, to enhance the quality of life in the city.
 - e. Maintain trees in a healthy and non-hazardous condition through good arboricultural practices such as proper pruning and mulching.
 - f. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(c) *General applicability.*

- (1) This article shall only apply to any activity which requires the issuance of a permit or notice that includes land disturbance or, in the judgment of the city arborist, otherwise has an impact on trees. No such permit shall be issued until it is determined by the city arborist that the proposed activity conforms to the provisions of this article.
- (2) This article applies to the development of all property lying within the city, inclusive of property owned by the city, its agencies, authorities and affiliated entities, except as otherwise provided in this article.
- (3) Nothing in this section shall be deemed to prohibit a property owner from pruning, maintaining or otherwise caring for trees on their property as needs require.

(d) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANSI means the American National Standards Institute.

ANSI standards means the ANSI A300 Series for tree care operations.

Arborist means a person who is certified by the International Society of Arboriculture as an ISA Certified Arborist whose certification is current.

Boundary tree means a tree 15 inches DBH or larger located on any part of a property adjacent to a permitting property with any portion of the root plate extending into the permitting property. (See *Root plate*.) Boundary trees must be in good health as determined from the vantage point of the property to be developed (pre-construction digital photographs required). This provision shall not authorize the trespass on private property abutting the site.

Buffer means a naturally existing area, a landscaped area or a combination of both designated for screening or buffering incompatible uses.

Buildable area means that area of the lot available for the construction of a dwelling, egress, and permissible accessory uses after having provided the required front, side and rear setbacks.

Caliper means the standard for trunk width measurement of nursery stock. Caliper of the trunk shall be taken at six inches above the ground for trees up to and including four-inch caliper size, and 12 inches above the ground for trees larger than four-inch caliper. For multi-stem trees, measure the diameter of the largest stem plus the average diameter of the remaining stems.

City arborist means the city's designee responsible for administering the provisions of this article.

Critical root zone (CRZ) means the minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. For the purpose of this article, the minimum area of the critical root zone shall be one-foot radius for every inch of diameter as measured at DBH. The critical root zone includes the root plate. Root plate means the area of the root zone comprised of pedestal roots, the zone of rapid taper and roots under compression, the directional radius of which is based upon the tree trunk diameter at 4.5 feet above the ground. The root plate will typically be represented by a concentric circle centering on the tree trunk with a radius equal in feet to one-half times the number of inches of the trunk diameter. Failure of the tree could result if roots in this area are damaged or destroyed. Example: The root plate radius of a 20-inch diameter tree is ten feet.

Density factor means a unit of measure used to prescribe the calculated tree coverage on a site. Except as provided in section 14-48(1), the site density factor within the corporate limits of the city is 120 inches DBH per acre or 45 percent canopy coverage.

Diameter at breast height (DBH) means the diameter of a tree trunk measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, then the trunk is measured at its most narrow point beneath the split. If using an inch tape, measure the circumference of the trunk at breast height and divide by 3.14. Example: $62 \text{ inches} / 3.14 = 19.74$ or 20 inches DBH ($3.14 = \pi$).

Dieback means a condition in which a tree or shrub begins to die from the leaf tips backward into the trunk due to disease or unfavorable environmental conditions.

Director means the director of the department of community development.

Hazardous tree means any tree determined by a certified arborist that is deemed to be in irreversible decline, is diseased, or poses a threat to life or property because of structural instability of the tree.

Historic tree means any historic or landmark tree designated as such by the Georgia Urban Forest Council.

ISA means the International Society of Arboriculture.

Mature canopy size means the potential amount of canopy that can be expected for a species at maturity, categorized as small (400 square feet), medium (900 square feet) and large (1,600 square feet).

Notice means any notice required by the provisions of this article.

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

Permit means any tree removal permit, land disturbance permit, or building permit impacting trees.

Pruning means pruning to elevate branches/limbs that are likely to be damaged by construction activities. Pruning shall not exceed 20 percent of the live crown. All pruning shall comply with ANSI Standard A300 (part 1) pertaining to pruning.

Specimen tree means any tree described in section 14-51(b), which qualifies for special consideration for conservation due to its size, type, condition, location or historical significance.

Tree means any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three inches, and typically has one main stem, a trunk and many branches.

Tree canopy cover means the amount of ground area directly beneath a tree's crown or the combined crowns of a stand of trees, measured in square feet.

Tree fund means an account, maintained by the finance department of the city, of funds contributed as a form of alternative compliance to this article. Tree funds may be used for:

- (1) The purchase and installation of trees in parks, right-of-ways and other city owned or leased property;
- (2) Maintenance of city trees; and
- (3) Promotion of a healthy urban forest.

Tree protection and replacement plan, tree protection plan, and tree replacement plan has the meaning given to such terms in section 14-49(2).

Tree save area means an area designated for the purpose of meeting tree density requirements, saving natural trees and/or preserving natural buffers.

Trophic layer means the different levels of low-growing grasses, forbs (non-woody flowering plants other than grass) and other plants; small trees, bushes and/or shrubs; and canopy cover from medium to larger trees existing in a stream buffer.

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

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015)

Sec. 14-48. - Tree removal exemptions.

The following shall be exempt from the provisions of this article:

- (1) The removal of three six-inch DBH or greater trees, other than specimen trees, from an owner-occupied, single-family residential property within a single calendar year so long as a density factor of 60 DBH inches of trees per acre is maintained and provided a tree canopy reduction notice (with no fee) for documentation purposes is obtained from the community development department said tree reduction notice shall expire within 180 days and no extensions shall be granted. Trees less than six-inch DBH may be removed from an owner-occupied, single-family residential property without a permit, so long as a density factor of 60 DBH inches of trees per acre is maintained. Any newly planted trees shall be planted in a manner that provides adequate spacing for nourishment, light and maturation. All stream buffer and floodplain acreage shall be excluded when calculating the density factor requirement contained in this subsection.
- (2) The removal of trees from golf courses and horticultural properties such as farms, nurseries or orchards except removal of trees from the state stream buffers or floodplains.
- (3) The removal of any tree that is hazardous and becomes or threatens to become a danger to human life or property as defined in section 14-47. Prior to removal, or within three days after removal, the property owner must submit a hazardous tree determination from a certified arborist. There is no permit, notice or plant back requirement under this subsection.
- (4) The removal of trees by a public utility or the city within permanent utility easements.
- (5) Activities or trees described in a waiver issued by the city manager or his designee during and immediately after the period of an emergency such as a flood, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature.

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015; Ord. No. 2017-08-07, § 1, 8-22-2017)

Sec. 14-49. - Procedures and requirements.

Notwithstanding the preservation of the specimen trees as provided herein, the city requires the preservation of trees outside of the site's buildable area having a density factor of not less than 120 DBH

inches per acre or 45 percent canopy coverage with the disturbance of no more than 20 percent of the critical root zone of each tree to be preserved.

- (1) *Application requirements (tree survey).* Except as provided elsewhere in this article, a tree survey is a required part of any application for a permit to remove or disturb trees or their CRZ within the city. Specimen trees, all trees eight inches DBH and larger, and all trees being counted toward the required density factor shall be identified by size, species, CRZ and location. The city arborist, with the approval of the director, may authorize in writing an alternative to the preparation of a tree survey where the applicant presents documentation by a partial tree survey or tree population inventory of the size, species and approximate critical root zone of trees other than specimen trees adjacent to limits of disturbance which demonstrates that the planned limits of construction will not reduce the tree density of the parcel below any required minimum of density.
- (2) *Tree protection and tree replacement plan requirements.* A tree protection and replacement plan shall be submitted with any site plan, tree survey, land disturbance, construction and other plans required as part of the permitting process. Plans will not be accepted without a completed tree protection and replacement plan. The tree protection plan and the tree replacement plan should be separated into two plans if the overall plan requirements are too complex to be reflected on one plan. Otherwise, the tree protection plan and the tree replacement plan may be on the same plan. The final decision of whether they are separate or combined is at the discretion of the city arborist. Tree protection and replacement plans shall include:
 - a. The identity of the tract of land, including the address, land lot and district and any adjacent roadways or other major identifying factors.
 - b. The name, address and telephone number of the owner, developer, landscape architect, surveyor, engineer and a 24-hour contact person;
 - c. Evidence that the plans conform to all applicable zoning conditions and any administrative guidelines.
 - d. All existing and proposed utility lines including but not limited to: overhead and underground power lines, easements, water lines, sewer lines and other utility lines.
 - e. The schedule for the implementation, installation, and maintenance of tree protection measures (the overall project schedule can be referenced, but must include tree protection measures).
 - f. The tree survey in the form of a to-scale map showing trees to be saved, Boundary trees and specimen trees with tree protection methods located at the critical root zone and all applicable details and calculations prepared and signed/sealed by a state registered surveyor or a state registered landscape architect. A certified arborist shall also review, approve and stamp the plan prior to submittal. The proposed tree protection fencing locations the requirements of any associated engineering grading/limits of disturbance plans.
 - g. The tree replacement plan prepared and signed/sealed by a state-registered landscape architect noting the location of all specimen trees to remain with critical root zone intact, boundary trees, and all other trees which will be conserved and/or planted to count toward meeting site tree density requirements. A certified arborist shall also review site trees and approve and stamp the plan prior to submittal. In addition, this plan will include all associated details, plant lists, inches required, specimen recompense calculations and any other applicable items as determined by the city arborist.
- (3) *Tree density requirements.*

- a. In connection with the permitting of land disturbance and the construction of improvements, the city requires the preservation of trees having a density factor of 120 DBH inches per acre and having a DBH of eight inches or greater with no more than 20 percent CRZ disturbance or 45 percent canopy coverage on the parcel. The only allowable exceptions are for sites having less than 120 DBH inches of trees or less than 45 percent canopy coverage before development, or only dead, dying or hazardous trees as verified by a certified arborist. For sites having less than 120 DBH inches per acre or 45 percent canopy coverage, see section 14-51(i) "Alternative compliance." Trees located within the buildable area of a site may be removed provided a density factor of 120 DBH inches of trees per acre or 45 percent canopy coverage is maintained.
 - b. Tree canopy cover. All existing healthy trees greater than eight inches DBH, with the exception of invasive and non-native, shall be eligible for tree canopy cover. The 45 percent of tree canopy cover on a site shall be measured in percent of the lot area that is covered by tree canopy, including canopy that projects over buildings and impervious surfaces. The canopy projected over and onto the applicant's property by a tree growing on a neighboring property or on the boundary between properties or on public property may be included in the measurement of tree canopy cover on a site.
 - c. Tree canopy cover preserved or planted to meet the requirements of tree density shall be conserved on the site for the following time period:
 1. Commercial properties in perpetuity.
 2. Residential properties for five years; after then the provision in section 14-48(1) shall be extended to the homeowner.
 - d. Required tree canopy cover lost over time due to natural causes, disease, or pests shall be replaced during the first planting season after the loss occurs with the same mature canopy size potential 2.5-inch caliper tree.
- (4) *Calculating tree density and individual tree canopy cover.* The applicant shall provide a plan demonstrating both preservation and any required tree replacement on sites submitted for development. Trees within undisturbed zoning buffers and trees outside of stream buffers and floodplain areas may be counted toward the density and/or preservation requirement. All stream buffers and floodplain acreage shall be excluded from the site area tree calculations.
- a. The required density of 120 DBH inches per acre may be achieved as follows:
 1. Counting and measuring existing trees (inches measured at DBH) to be conserved.
 2. The planting of new trees (minimum 2.5-inch caliper) for lots that do not have a density factor of 120 DBH inches per acre or 45 percent of canopy coverage.
Formula: Acreage x 120 DBH inches = Required inches
 - b. The 45 percent canopy coverage shall be measured as follows:
 1. The width of crown is measured at its widest point in feet (round to the nearest foot), as it is projected onto the ground. Then the width of the crown in a perpendicular (crosswise) direction is measured. Add these two crown widths (diameters) together and divide by two to get the average crown diameter, and by two again to get the average crown radius. This radius squared multiplied by 3.14 will equal the tree canopy cover for the tree, in square feet.
 2. To measure the canopy cover of a group of trees or all trees on a lot. First map the projection of the canopy onto the ground on a plat or aerial photograph of the property. Measure and map the extent of the canopy in relation to the house and property lines by recording the distances from the property lines, buildings, and other structures. Calculate the square foot area by sectioning the canopy off into squares, rectangles, triangles or circles. Multiply the length by the width of the

sections if they are a square or rectangle, multiply length by width and divide by two for a triangle, and use the formula for the area of a circle if more or less circular. Add the various sections together to calculate the total tree canopy cover in square feet. Once the total amount of tree canopy cover on a property has been measured, divide that total by the total area of the lot in square feet to calculate the percent canopy cover for the lot.

Formula: Average canopy diameter x 3.14 = total square foot of canopy/by total lot square footage = canopy coverage percentage of lot.

3. Arborists may also use an appropriately sized dot grid that can be placed over the top of an aerial photograph or map of a property to determine total tree canopy cover percent for a lot. All dots that fall on top of tree crowns are counted and divided by the total number of dots that cover the entire lot to arrive at an estimate of tree canopy cover percent or other methodologies approved by the city arborist.
 4. The minimum required inches or canopy coverage shall be calculated and established pursuant to the formulas as shown above and shall be presented in a prominent location on the tree protection and replacement plan.
- c. The calculation of the inches or canopy required for residential properties shall be based on the net site area, excluding any detention ponds, lakes, stream buffers, floodplain areas and permanent easements where planting is prohibited. On single family property where there is at least 2,500 but less than 4,500 square feet of front yard area (the area of land immediately adjacent to the improvement running to the boundary of the street right of way), there shall be at least one 2.5-inch caliper tree within the front yard area. On single family residential property where there is at least 4,500 square feet of front yard area, there shall be at least two 2.5-inch caliper trees within the front yard area. Nothing in this article shall be construed to allow the removal of any tree or vegetation in a required stream buffer, transitional buffer zone or state buffer zone except buffer improvements as authorized by the director. A buffer may be pruned per ANSI standards to allow "line of sight" views to and from structures and/or surface water with the approval of the city arborist, provided, however, an entire trophic layer shall not be removed.
- d. The calculation of the inches or canopy required for commercially or industrially zoned properties shall be based on the net site area, excluding any detention ponds, lakes, stream buffers, floodplain areas and permanent easements where planting is prohibited. Nothing in this article shall be construed to allow the removal of any tree or vegetation in a required stream buffer, zoning buffer, or state buffer zone except buffer improvements as authorized by the director. Trees within a buffer may be pruned per ANSI standards to allow "line of sight" views to and from structures and/or surface water with the approval of the city arborist; provided, however, an entire trophic layer shall not be removed.
- e. Tree relocation of existing trees between two-inch caliper and 7.9-inch caliper inches may be used for credit on the tree replacement plan with the written approval of the city arborist.
- f. Tree preservation areas shall leave intact the naturally occurring groundcover or understory vegetation unless otherwise approved in writing by the city arborist in order to remove invasive or undesirable vegetation.
- (5) *Issuance of permit.* No permit shall be issued until the tree protection and replacement plan has been reviewed and approved by the city arborist. All tree protection measures shall be installed as approved and inspected by the city arborist or a designee prior to land disturbance. Once land disturbance begins, sites not complying with the approved tree

protection and replacement plan may be issued a "Stop Work Order" or a permit may be revoked if conditions of the permit terms are violated.

- (6) *Final inspection.* No certificate of occupancy will be issued by the director for any improvement where the construction and/or land disturbance is subject to this article until the city arborist has inspected the site and confirmed that all remaining existing trees are in good condition and all replacement trees have been planted in compliance with the approved tree protection and replacement plan.

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015; Ord. No. 2017-08-07, § 1, 8-22-2017)

Sec. 14-50. - Fees.

Refer to the city's fee schedule.

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015)

Sec. 14-51. - Tree preservation and replacement standards.

(a) *Transplant trees.*

- (1) Any tree transplanted/moved using the tree spade method from one area on the permitted site and relocated to a different area of the permitted site will be given credit at 1.5 x DBH inches.
- (2) A tree spade transplanting agreement must be signed by the applicant and approved by the city arborist prior to plan approval.
- (3) Transplanting shall be performed using a tree spade of proper dimension.
- (4) Transplanting shall comply with the current ANSI Standard Z-60.1, section 1.3.
- (5) Trees and shrubs should not be dug or moved with a tree spade during the active growing period (Mid-March to early October).

(b) *Specimen trees.*

- (1) Specimen trees and the critical root zone of each such tree shall be shown on the tree protection and replacement plan by the applicant. The critical root zone shall be depicted on the plan by a dashed circle. Any specimen tree saved with less than 25 percent critical root zone impaction within the buildable area of the lot shall be worth 1.5 x DBH inches. A certified arborist's prescription for treatment must be approved by the city arborist prior to plan approval.
- (2) The sizes and types of trees to be designated as specimen trees are as follows:
 - a. *26-inch DBH.* Hardwood/softwood trees of the following genus: Oak, beech, ash, blackgum, sycamore, hickory, maple (does not include silver maple), pecan, walnut, persimmon, sourwood, cedar, cypress, or redwood.
 - b. *30-inch DBH.* Hardwood trees of the following genus: Tulip poplar, sweet gum, magnolia, river birch, or silver maple.
 - c. *10-inch DBH.* Understory trees, including, but not limited to, American holly, dogwood, redbud or other genus of understory trees indigenous to the city.
- (3) Additional criteria for consideration to designate a tree as a specimen:
 - a. A tree life expectancy of greater than 15 years.
 - b. A sound and solid trunk with no obvious extensive decay, hollow areas, or structural deficiencies.
 - c. A radial trunk dieback of no more than 20 percent or a canopy dieback of no more than 30 percent.
 - d. A uniform tree crown distribution with no more than 70 percent of all branches on one side of the tree.

- (4) A tree can be designated as a specimen tree if the city arborist deems:
 - a. It is a rare or unusual species or of historical significance.
 - b. It is specifically used by a builder, developer or design professional as a focal point in a project or landscape.
 - c. It is a tree with an exceptional aesthetic quality.
 - (5) The city arborist may identify and require the preservation of a tree stand if it contains one or more specimen trees and the specimen trees are interlocked with other members of the stand in such a way as to imperil the specimen tree if other members of the stand were to be removed.
 - (6) A report by a certified arborist shall be included along with the tree protection and replacement plan for all specimen sized trees noting their location, size and condition. Trees meeting the specimen criteria that are slated for removal shall be recompensed at 1.5 x DBH inches with a combination of two-inch, three-inch and four-inch or larger caliper overstory tree. For trees not meeting the specimen tree criteria, the arborist report will contain supporting photo documentation and detailed descriptions supporting this determination. Upon confirmation by the city arborist, the applicant will not be required to recompense properly documented trees that do not meet the specimen tree criteria. The arborist report shall be submitted in digital format (pdf) for documentation purposes. Specimen recompense is in addition to the density factor requirement of 120 DBH inches or 45 percent canopy coverage per acre. Trees other than specimen trees saved without any critical root zone impact in excess of the required density factor of 120 DBH inches per acre or 45 percent canopy coverage may count toward the specimen recompense on a 1.5 x DBH inch basis.
 - (7) No specimen tree existing on a tract of land that is not to be removed pursuant to approved tree protection plan shall be removed without the written approval of the city arborist and the director.
 - (8) If the city arborist agrees that the specimen recompense trees will not fit on the site in accordance with accepted industry spacing requirements, alternative compliance shall be made by payment of a recompense fee to the tree fund.
 - (9) The specimen tree recompense fee is computed as follows: Recompense fee = \$200.00 per/DBH inch.
 - a. The number of inches subject to a specimen recompense fee shall not exceed 60 inches DBH per acre in addition to the required 120 inches DBH or 45 percent canopy coverage for preservation, nor shall it exceed \$240,000.00 per 20 acres in any case.
 - b. A reduction of up to 50 percent of recompense can be granted if the site design includes dedicated Green Space and/or Green Infrastructure Practices found on the EPA website: <http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm> including, but not limited to, bioretention, rain gardens, infiltration trenches, bioswales, permeable pavement, stormwater planters, subsurface infiltration, rainwater harvesting/cisterns, and green roofs.
- (c) *Protection of trees during construction.*
- (1) Trees identified to be preserved and counted toward the tree density requirements shall have temporary chain link fence or four foot orange tree protection fencing and staked hay bales installed at or beyond the critical root zone. A sign shall be placed on the fencing stating "Keep Out." A two-inch layer of mulch and mycorrhizae fungi shall be applied over the critical root zone prior to construction.
 - (2) Pre-construction limb pruning shall be performed on any trees within the construction zone, that are to be preserved, tree branches shall be pruned to an appropriate height to avoid damage by construction equipment and structures. All dead branches greater than one inch in

diameter should be removed to reduce the risk of dead branch failure to construction personnel. All tree pruning is to be done using ANSI standard A300 (part 1) for pruning. No gaff or spike climbing to be used to access limbs.

- (3) Root pruning is to be done whenever roots of trees are exposed during construction, All root pruning to be done using ANSI standard A300 (part 8) for root management. The root ends are to be cut off cleanly and the roots covered by dirt or plastic for as long as the root is exposed. When performing a trench excavation, the roots have to be cut on the tree-side of the trench prior to excavating. No root pruning shall be allowed in the structural root plate of any saved tree.
- (4) In tree save areas where large equipment will be operating, a temporary bridge over the root system of the tree shall be constructed including but not limited to construction mats or landscape timbers and plywood. Area of bridge will typically adhere to the area under the dripline for all trees. Temporary bridge detail must be included on the tree protection and replacement plan.
- (5) No person engaged in the construction of any improvement or site work shall encroach or place solvents, material, construction machinery or temporary soil deposits within the critical root zone of specimen trees, tree save areas, transitional buffer zones, stream buffers and/or state buffers.
- (6) All tree protection devices must remain in functioning condition until completion of the project:
 - a. For all projects, tree protection devices must be installed and inspected prior to any clearing, grubbing or grading.
 - b. Tree protection fences for subdivisions shall be installed by the developer at the same time as the erosion control devices. The developer is responsible for maintenance of tree protection fences and devices until building commences on a lot. Thereafter, both the developer and the general contractor are responsible for maintenance of the fence on the lot.
- (7) Any tree designated on the tree protection plan to be saved, which is damaged during construction other than by an act of God, shall be treated according to ISA standards. If fatally damaged, the tree shall be recompensed on a 1.5-inch per one-inch basis with a combination of two-inch, three-inch and four-inch or larger caliper overstory trees.
- (8) Boundary tree protection and escrow account.
 - a. The permittee shall provide a boundary tree agreement between the homeowner and the applicant. The boundary tree owner may request for a tree escrow account to be established, which may be an irrevocable letter of credit in favor of the city from the permittee in the amount agreed to by both parties or may be a cash deposit in trust with the city in that amount, or the permittee must submit an agreement contract concerning the proposed boundary tree disturbance that is agreed upon and signed and notarized by both parties, prior to permit issuance. A copy of that agreement shall be submitted to the city to be placed in the building permit file.
 - b. For any boundary tree that has its critical root zone impacted and/or encroached into more than 20 percent without a previously approved certified arborist prescription, the permittee shall either deposit into an escrow account, or cause to be issued in favor of the city, an irrevocable letter of credit, in an amount totaling the estimated cost of removal of the boundary tree plus the cost to replace the boundary tree with a minimum three-inch caliper tree. The applicant must send a certified letter describing the proposed disturbance to the boundary tree owner at the last known address of the boundary tree owner. A copy of the letter and the certificate of mailing must be provided to the city to

place in the permit file prior to permit issuance. This does not prevent the boundary tree owner from filing a civil action in court for any damages to the boundary tree real or perceived.

- c. Replacement trees shall be of comparable mature canopy size and species quality to the replaced boundary tree, and shall be ecologically compatible with the intended growing site as determined by the city arborist.
 - d. After three years from the date of certificate of occupancy issuance, the permittee may petition the city arborist to return the money held in escrow for the boundary tree. The city arborist will review the boundary tree to determine if it is in irreversible decline as a result of the permittee's disturbance activities. Permittee and boundary tree owner are notified of the arborist's determination via first class mail. Either party may appeal the decision to the ~~zoning board of appeals~~board of appeals.
 - e. If, during the three-year period, the boundary tree is in irreversible decline or has died as a result of the permittee's land disturbance and/or construction activity, the boundary tree owner will be issued a check by the city for the amount deposited by the permittee. The permittee and boundary tree owner will be notified by the arborist via first class mail. Either party may appeal the decision to the ~~zoning board of appeals~~board of appeals.
 - f. Neither the boundary tree owner nor the permittee shall be entitled to receive interest on any funds required by this provision. Any funds not collected by either the boundary tree owner or the permittee within a period of four years shall be deposited into the city tree fund.
- (d) *Removal of trees from floodplain.* Trees shall not be cut or removed from the 100-year floodplain except as follows and only with prior written approval by the director:
- (1) Those trees found to be diseased or infested by insects as determined by either the city arborist, county extension service, the state forestry commission, a certified arborist or a registered forester;
 - (2) For the construction, repair or maintenance of public roads, utilities or stormwater management facilities;
 - (3) As part of a governmental approved wetland mitigation plan; or
 - (4) As part of a land disturbance application that conforms to the stream buffer and floodplain ordinance requirements contained in articles VI and VIII of this chapter.

In the event that this section conflicts with article VIII of this chapter relating to floodplain management, the provisions of article VIII of this chapter shall control.

(e) *Tree replacement.*

- (1) The tree protection and replacement plan shall include a planting schedule/list with proposed tree names (botanical and common), quantity, minimum caliper size, total inches, percentages and any special planting notes or comments. A minimum of 50 percent of the trees shall be native to the region.
- (2) Trees counting toward the density factor must be on the approved plant list shown in this division. Any trees not on this list must be approved by the city arborist before planting. Trees selected for planting must meet the minimum requirements as provided in the American Standard for Nursery Stock (ANSI Z60.1, edition).
- (3) At least 50 percent of trees planted as replacement trees must be overstory trees. When practical, the replanted trees shall be of the same or similar species as those removed. No more than 25 percent of any one genus may be included in any plan without the written consent of the city arborist. When more than 50 trees are proposed for replanting, a minimum of five species of trees is required.

- (4) Replacement tree planting within utility, storm drainage, sanitary sewer, or other types of easements is not permissible without the written permission of the easement holder and a copy of such consent is delivered to the city arborist with the tree protection and replacement plan.
 - (5) Replacement trees shall be planted in a manner that provides adequate spacing for nourishment, light and maturation pursuant to ANSI standards. The minimum spacing between the trunks of all deciduous shade trees and existing or proposed buildings shall be 20 feet.
 - (6) The minimum spacing between the trunks of all understory trees and any existing or proposed buildings shall be 15 feet.
 - (7) Approved tree planting and staking details shall be included in the plan.
 - (8) Trees which are used to meet the density requirements of this section shall be maintained for two growing seasons after the date of final inspection. The property owner shall maintain required tree density. The permittee (applicant or builder) will be responsible for identifying newly planted trees to the homebuyer and to inform the homebuyer as to their proper maintenance. Should any tree begin failure within the two-year period, a replanting of new replacement trees shall be completed. An agreement between the permittee and homebuyer to determine who will cover replacement costs at time of tree death to be submitted prior to certificate of occupancy. If there is no homebuyer at the time of certificate of occupancy, the permittee is responsible for tree replacement.
- (f) *Parking lot trees.*
- (1) Any redevelopment project that results in the removal and replacement of 50 percent or more of an existing parking lot, other than routine maintenance of the parking lot surface, shall be subject to the requirements of this section.
 - (2) Parking areas containing more than 20 off-street parking spaces on any single lot shall contain parking lot trees.
 - (3) There shall be a minimum of one overstory tree for every eight parking spaces included in the required landscaped areas (i.e., peninsula, island or median island). Perimeter trees are not considered parking lot trees.
 - (4) Parking lot trees must be a minimum of 2.5-inch caliper and no parking space shall be more than 50 feet from a tree. A 50-foot dashed radius circle for each parking lot tree shall be depicted on the tree protection and replacement plan. Overstory trees shall have a minimum of 200 square feet per tree per planting area.
 - (5) Parking lot tree islands shall terminate each row of parking and shall be a minimum of nine feet wide. Interior islands shall be a minimum of eight feet wide. Tree islands shall be backfilled with a minimum of three feet of suitable soil.
 - (6) Light poles and associated underground electric lines shall not be allowed in parking lot tree islands. A 20-foot minimum spacing is required between the trunks of all deciduous shade trees and any existing or proposed light poles. The final light pole locations shall be depicted on the plan with a 20-foot dashed radius circle around each light pole.
- (g) *Street trees.*
- (1) On commercial and industrial sites, there shall be a minimum of one 2.5-inch caliper deciduous shade tree for every 35 feet of public street or private entrance road frontage. The planting area must be a minimum of eight feet from the back of curb, if no sidewalk is present. If a sidewalk is present or is to be installed, the planting area from the back of sidewalk must be a minimum of five feet. If the public street has a speed limit of 45 or more miles per hour, trees must be located a minimum of 16 feet from edge of the pavement. The plan submittals require a detail of the street front planting requirement and include all calculations. Root

barriers may be required on a case by case basis. Acceptable understory species, as approved by utility provider, may be substituted as road frontage trees in situations where overhead power lines are present.

- (2) For subdivisions, providing a design appropriate street tree planting program is an acceptable method of achieving tree density requirements. Plans will be approved on a case by case basis and trees must be a minimum of two-inch caliper.
- (h) *Buffers.*
- (1) During authorized land-disturbing activities, all buffers shall be clearly demarcated on all development plans and protected during construction in accordance with best management practices or as required by the city arborist.
 - (2) Required stream buffers shall comply with all current state and local guidelines.
 - (3) A zoning buffer shall consist of evergreen plant materials that when planted are intended to form an 80 percent visual barrier within two years and a 100 percent visual barrier within five years. Planted trees and shrubs must have a minimum height of six feet and two feet, respectively. Buffers may be required as a condition of rezoning of a parcel, the granting of a variance or the granting of a special exception under chapter 27.
 - (4) Disturbance or encroachments of buffers are not permitted. This includes, but is not limited to, ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities and any associated easements except that necessary utility access and crossings may encroach into the buffer as near to perpendicular as practical.
 - (5) Buffer planting standards are as follows:
 - a. *Existing buffer to remain undisturbed.* Sparsely vegetated or previously disturbed portions of any existing buffer shall be replanted to comply with subsection (h)(3) of this section. Dying, diseased, dead or invasive materials may be removed from a buffer provided that minimal disturbance occurs and the written approval of the city arborist or director is obtained prior to the removal.
 - b. *Buffer width 20 feet or less.* This buffer shall consist of a minimum of one row of evergreen trees and one row of evergreen shrubs.
 - c. *Buffer width 21—35 feet.* This buffer shall consist of a minimum of two rows of evergreen trees and one row of evergreen shrubs.
 - d. *Buffer width greater than 35 feet.* This buffer shall be subject to approval by the city. A mix of hardwood and evergreen trees planted within buffer areas may be counted for credit toward the minimum required density inches per acre. Up to 25 percent of this buffer may also be planted with shrubs as approved by the city arborist.
- (i) *Alternative compliance.* The city arborist must review and approve all requests for alternative compliance. For the request to be considered, the applicant must preserve trees outside of the site's buildable area having a density factor of not less than 60 DBH inches per acre with the disturbance of no more than 20 percent of the critical root zone of each tree to be preserved. Where the city arborist has determined that special constraints of a site result in an inability to provide the required 120 inches per acre or 45 percent canopy coverage and/or specimen recompense inches per acre, the number of trees will be determined by the city arborist based on site review. Possible alternatives may include one or more of the following:
- (1) Common area planting within the existing development.
 - (2) Tree banking. Allowable in areas designated for public planting programs within a reasonable distance from the existing development. To be approved on a case by case basis by both the director and the city arborist.
 - (3) Tree fund. Price per inch based on current market installed costs.

- (j) *Tree harvesting.* Permits authorizing selective tree harvesting shall be determined on a case by case basis with the approval of the city arborist and the director.
- (k) *Utility company and public works guidelines.*
 - (1) All tree trimming and pruning are to be performed by public utilities, public agencies and their subcontractors on trees growing on private or public rights-of-way shall be done according to the most current ANSI standards for pruning of mature trees.
 - (2) The routing of public and private utility easements shall be subject to review and comment by the city arborist.
 - (3) No person, firm or corporation shall interfere with the director of public works or persons acting under the director of public work's authority while engaged in planting, mulching, pruning or removal of trees, shrubs, etc., in any street or public place within the city.
- (l) *Enforcement.* It shall be the duty of the director or a designee of the director to enforce this article. The director shall have the authority to, and the city arborist may recommend that, the director revoke, suspend or void any permit or suspend all work on a site or portion thereof in order to effect compliance with this section.
 - (1) *Violation and penalty.* Any violation of any of the provisions of this article by any person, firm or corporation shall be deemed an offense and upon conviction in municipal court such person, firm or corporation shall be subject to penalty as is provided in section 1-11. Each tree removed or killed in violation of this section shall be considered a separate offense. Upon conviction in municipal court, the owner of any buildings or premises or parts thereof, where anything in violation of this section exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. Any homeowner of record found in violation of any of the provisions of this article, after having first been issued a warning notice, shall be subject to penalty as is provided in section 1-11.
 - (2) *Additional legal remedies.* In addition to all other actions and penalties authorized in this section, city attorney or his designee is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate or remove any violation of this section.
 - (3) *Administrative variances.* Front, side, and rear yard setbacks, and parking requirements may be reduced up to 25 percent by the city arborist and the director in order to preserve existing specimen trees. Appropriate conditions to said administrative variances shall be imposed so as to ensure the continued health of said trees following the granting of such variances, including mandatory replacement requirements. Administrative variances shall be considered and decided consistent with procedures and criteria as set forth within the zoning ordinance.
- (m) *Special exceptions.* The ~~zoning board of appeals~~board of appeals shall hear and decide applications for special exceptions for the removal of a specimen tree. The provisions of sections 27-1658 through 27-1661 and sections 27-1668 through 27-1670 shall apply with regard to this section. No such special exception for the removal of a specimen tree shall be granted by the ~~zoning board of appeals~~board of appeals unless the applicant has demonstrated, and the ~~zoning board of appeals~~board of appeals has found, that the property is not capable of earning a reasonable economic return absent the grant of the special exception. In making this determination, the ~~zoning board of appeals~~board of appeals shall consider the following factors:
 - (1) Value of the trees in question, considering their age, size, health and significance.
 - (2) The current level of economic return on the property.
 - (3) The marketability of the property.
 - (4) The feasibility of alternate design or uses.

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015; Ord. No. 2017-08-07, § 1, 8-22-2017)

Editor's note— Ord. No. 2017-08-07, § 1, adopted Aug. 22, 2017, amended § 14-51 and in so doing changed the title of said section from "Tree preservation and replacement standards for specimen and transplant trees" to "Tree preservation and replacement standards," as set out herein.

Sec. 14-52. - Tree list.

Tree List

* Denotes native Georgia plant throughout this table.

Botanical Name and Common Name	Georgia's Hardy Zone	Texture	Form	Height	Spread	Grow Rate	Class	Remarks
Overstory—Large Trees								
Acer rubrum 'franks red' red sunset red maple	6b, 7	Medium	Rounded	45-50'	35-40'	Medium	Deciduous	Shade tree with bright red fall color
Acer rubrum 'October glory' October glory red maple	Entire state	Medium	Oval rounded	40-50'	25-35'	Medium	Deciduous	Shade tree with excellent late red fall color
Acer saccharum ssp. Floridanum southern sugar maple *	Entire state	Medium	Oval	40-50'	25-35'	Medium to fast	Deciduous	Shade tolerant; usually yellow fall color
Acer saccharum 'legacy' legacy sugar maple	6b, 7	Medium	Oval	40-50'	25-35'	Medium	Deciduous	Drought resistant with dark green leathery leaves
Betula nigra 'bnmtf' dura-heat river birch	Entire state	Medium	Oval	40-50'	30-40'	Fast	Deciduous	Specimen with good heat tolerance
Betula nigra 'cully' heritage river birch	Entire state	Medium	Oval	40-50'	25-35'	Fast	Deciduous	Specimen
Carya illinoensis pecan	Entire state	Medium	Rounded	50-60'	30-40'	Medium	Deciduous	Nuts and shade; branches subject to breakage

Celtis laevigata sugar hackberry *	Entire state	Medium	Upright to rounded	60-80'	25-35'	Medium	Deciduous	Street and shade tree
Cryptomeria japonica 'yoshino' Japanese cryptomeria	Entire state	Fine	Pyramidal	50-60'	20-30'	Fast	Evergreen conifer	Specimen and screening
Cupressocyparis leylandii leyland cypress	Entire state	Fine	Pyramidal	50-60'	20-30'	Fast	Evergreen conifer	Specimen and screening
Fagus grandifolia American beech *	Entire state	Coarse	Rounded	60-80'	35-45'	Medium	Deciduous	Shade tree
Ginkgo biloba ginkgo or maiden hair tree	Entire state	Medium	Irregular	50-70'	30-40'	Very slow	Deciduous	Yellow fall color; specimen; select male trees
Liquidambar styraciflua sweetgum *	Entire state	Coarse	Oval	60-80'	40-50'	Fast	Deciduous	Yellow to orange to purple fall color; specimen
Liriodendron tulipifera tuliptree or yellow poplar *	Entire state	Coarse	Pyramidal	80- 100'	30-40'	Fast	Deciduous	Shade tree, needs adequate moisture
Magnolia grandiflora southern magnolia *	Entire state	Coarse	Horizontal branching pyramidal	60-80'	40-50'	Slow to medium	Broad- leaved evergreen	Specimen with large white flowers
Magnolia grandiflora 'bracken's brown beauty' bracken's brown beauty magnolia	Entire state	Course	Pyramidal	40-60'	15-30'	Medium	Broad- leaved evergreen	Compact, dense pyramidal specimen
Metasequoia glyptostroboides dawn redwood	6b, 7	Fine	Upright	80- 100'	25-30'	Fast	Deciduous conifer	Specimen or screen, tolerant of wet sites
Nyssa sylvatica black tupelo *	Entire state	Medium	Oval	40-50'	25-30'	Medium	Deciduous	Naturalistic gardens

Pinus taeda loblolly pine *	Entire state	Medium	Horizontal branching	60-80'	20-30'	Fast	Evergreen conifer	Mass plantings and screening
Platanus occidentalis sycamore or planetree *	Entire state	Coarse	Upright	80- 100'	40-50'	Fast	Deciduous	Shade tree
Platanus x acerifolia london planetree	Entire state	Coarse	Upright	70- 100'	50-60'	Fast	Deciduous	Shade tree with urban tolerance
Quercus alba white oak *	Entire state	Medium to coarse	Rounded	60- 100'	40-60'	Slow	Deciduous	Shade tree, difficult to transplant
Quercus coccinea scarlet oak *	Entire state	Medium	Rounded	60-80'	30-40'	Medium	Deciduous	Scarlet fall color; shade
Quercus falcata southern red oak *	Entire state	Coarse	Rounded	70-80'	30-60'	Medium	Deciduous	Sheds old leaves in early spring; shade tree.
Quercus hemisphaerica laurel oak or Darlington oak *	7, 8	Medium	Rounded	60-80'	40-60'	Medium	Semi- evergreen	Drought tolerant street tree
Quercus laurifolia swamp laurel oak *	7, 8	Medium	Rounded	60-80'	30-40'	Medium	Semi- evergreen	Shade; sheds leaves earlier than laurel oak
Quercus lyrata overcup oak *	Entire state	Medium	Rounded	40-60'	30-40'	Medium	Deciduous	Transplants well, adapts to poor sites; strong oval form when young
Quercus nigra water oak *	Entire state	Medium	Rounded	50-80'	40-50'	Medium to fast	Deciduous	Shade tree
Quercus nuttallii nuttall oak	Entire state	Medium	Rounded	40-60'	30-40'	Fast	Deciduous	Shade tree transplants well
Quercus palustris pin oak	6b, 7	Medium	Pyramidal	50-60'	25-40'	Medium	Deciduous	Shade or specimen tree

Quercus phellos willow oak *	Entire state	Fine	Rounded	40-60'	30-60'	Medium	Deciduous	Yellow fall color, shade tree
Quercus shumardii shumard oak *	Entire state	Medium	Pyramidal to rounded	60-80'	50-60'	Medium	Deciduous	Russet red fall color; good street tree
Quercus Virginiana live oak *	7, 8	Medium	Rounded, spreading	40-80'	60- 100'	Medium	Broad- leaved evergreen	Shade or specimen tree
Taxodium distichum bald cypress *	Entire state	Fine	Pyramidal	50-70'	20-30'	Medium	Deciduous	Specimen with small bright green leaves
Ulmus parvifolia theda lacebark elm	Entire state	Fine	Rounded	30-40'	40-55'	Fast	Deciduous	Specimen or shade for urban areas; drought tolerant and pest free
Ulmus parvifolia 'elmer ii' allee lacebark elm	Entire state	Fine	Vase shaped	50-75'	40-60'	Fast	Deciduous	Specimen or shade for urban areas; drought tolerant and pest free
Zelkova serrata 'green vase' green vase Japanese zelkova	Entire state	Fine to medium	Vase shaped	60-80'	40-60'	Fast	Deciduous	Shade or street tree with fast growth
Zelkova serrata 'village green' Japanese zelkova	Entire state	Fine to medium	Vase shaped	40-60'	30-40'	Fast	Deciduous	Excellent street tree with rusty red fall color
Understory—Small Trees								
Acer buergerianum trident maple	Entire state	Medium	Oval	20-35'	15-25'	Slow to medium	Deciduous	Specimen or naturalistic sites; tough tree for urban sites
Acer palmatum Japanese maple	Entire state	Fine to medium	Horizontal branching	15-20'	10-15'	Medium	Deciduous	Specimens with red or green

								foliage
Amelanchier arborea serviceberry *	6b, 7	Medium	Oval	30-40'	15-20'	Medium	Deciduous	Borders; white flowers in early spring
Carpinus caroliniana American hornbeam *	Entire state	Medium	Irregular	20-30'	15-20'	Slow	Deciduous	Tough, urban tolerant tree; wet site tolerant
Cedrus deodara deodar cedar	7, 8	Medium	Pyramidal	30-50'	20-30'	Medium	Evergreen conifer	Specimen, screening
Cercis canadensis eastern redbud *	Entire state	Medium	Oval	20-30'	18-20'	Medium	Deciduous	Spring flowering
Cercis chinensis Chinese redbud	Entire state	Medium	Oval	15-20'	10-12'	Medium	Deciduous	Small spring flowering tree
Cercis reniformis ma' redbud	7, 8	Medium	Spreading	15-20'	15-20'	Medium	Deciduous	Red flowers
Chionanthus retusus Chinese fringe tree	Entire state	Medium	Spreading	15-25'	10-15'	Medium	Deciduous	Bright white spring flowers
Chionanthus virginicus white fringe tree *	Entire state	Coarse	Irregular	12-20'	10-15'	Slow to medium	Deciduous	White spring flowers
Cladrastis kentukea American yellowwood	6b, 7	Coarse	Oval	25-30'	10-12'	Slow	Deciduous	White flowers and yellow fall color; specimen
Cornus florida flowering dogwood *	Entire state	Medium	Horizontal branching	15-25'	15-20'	Slow	Deciduous	Specimen or masses
Cornus kousa kousa dogwood	6b, 7	Medium	Horizontal branching	15-25'	15-20'	Slow	Deciduous	Specimen or small grove
Crataegus phaenopyrum Washington hawthorne	6b, 7	Medium	Upright to rounded	25-30'	15-20'	Medium	Deciduous	Red berries in fall
Ilex x 'Nellie R. Stevens' Nellie R.	Entire state	Medium to	Upright	10-20'	8-10'	Medium to fast	Broad- leaved	Specimen, screening

Stevens holly		coarse					evergreen	
Ilex x attenuata hybrid holly	Entire state	Medium to coarse	Upright pyramidal	10-40'	6-15'	Medium	Broad- leaved evergreen	Specimen, screening; red berries
Cultivars include	Cultivar		Remarks					
	'East palatka'		Leaves single spined					
	'Fosteri'		Very pyramidal and dense					
	'Savannah'		Light green foliage.					
Ilex cassine cassine holly *	7, 8	Medium	Pyramidal	10-20'	8-10'	Medium	Broad- leaved evergreen	Screening
Ilex opaca American holly *	Entire state	Coarse	Pyramidal	20-50'	15-30'	Medium	Broad- leaved evergreen	Dark green foliage; specimen, screening
Ilex opaca 'greenleaf' greenleaf holly	Entire state	Coarse	Pyramidal upright	20-30'	10-15'	Medium	Broad- leaved evergreen	Compact habit of growth
Ilex vomitoria yaupon holly *	7, 8	Fine	Irregular	15-20'	8-10'	Fast	Broad- leaved evergreen	Screening with bright red fruit
Ilex vomitoria weeping yaupon holly *	7, 8	Fine	Weeping	15-20'	8-10'	Medium to fast	Broad- leaved evergreen	Distinctive weeping habit
Juniperus virginiana red cedar *	Entire state	Medium	Pyramidal	25-40'	15-20'	Slow	Evergreen conifer	Screen
Koelreuteria bipinnata Chinese flametree	7, 8	Medium	Upright	20-30'	15-20'	Fast	Deciduous	Yellow flowers followed by pink pods
Koelreuteria paniculata goldenrain tree	6b, 8a	Fine	Rounded	20-30'	10-15'	Medium	Deciduous	Yellow flowers in early

								summer
Lagerstroemia indica common crapemyrtle	Entire state	Fine	Upright	6-30'	4-15'	Medium to fast	Deciduous	White, pink, lavender or red flowers
Lagerstroemia indica x l. Fauriei hybrid crapemyrtle	Entire state	Fine	Upright	15-30'	10-15'	Fast	Deciduous	White, pink, lavender or red flowers; hybrids have mildew resistance and bloom longer
Magnolia grandiflora 'little gem' little gem southern magnolia	7, 8	Medium	Upright	15-20'	8-10'	Medium	Evergreen	Dark green evergreen foliage on compact plant
Magnolia soulangiana Japanese magnolia	Entire state	Coarse	Rounded	20-30'	15-20'	Medium	Deciduous	Pink saucer-like blooms
Magnolia stellata star magnolia	Entire state	Coarse	Rounded	12-20'	10-15'	Slow to medium	Deciduous	White flowers
Malus x 'dolgo' dolgo crabapple	6b, 7	Medium	Rounded	15-20'	10-15'	Medium	Deciduous	White flowers followed by red to purple fruits; disease resistant
Malus floribunda Japanese crabapple	6b, 7	Medium	Rounded	15-20'	15-20'	Medium	Deciduous	Pinkish-red flowers fading to white; fruit yellow, red; mostly disease resistant
Malus callaway crabapple	6b, 7	Medium	Rounded	15-20'	15-20'	Medium	Deciduous	White flowers, red fruit
Oxydendrum	Entire	Medium	Upright	25-30'	15-20'	Medium	Deciduous	Red fall

arboreum sourwood *	state	to coarse						color
Pinus virginiana Virginia pine *	6b, 7	Medium	Pyramidal	20-40'	15-20'	Medium	Evergreen conifer	Good for screening
Pistacia chinensis Chinese pistache	Entire state	Fine	Rounded	30-40'	20-30'	Fast	Deciduous	Yellow to bright orange-red fall color; hardy and heat tolerant
Prunus x 'okame' okame cherry	Entire state	Medium	Upright	20-30'	15-20'	Fast	Deciduous	Early spring rosy pink blooms
Prunus caroliniana carolina cherrylaurel *	7, 8	Medium	Oval	20-30'	15-20'	Fast	Broad- leaved evergreen	Susceptible to ice damage
Prunus cerasifera 'thundercloud' purpleleaf plum	Entire state	Medium	Upright	20-30'	15-20'	Medium	Deciduous	Purplish foliage
Prunus mume Japanese apricot	Entire state	Medium	Irregular	15-20'	10-15'	Slow	Deciduous	Blooms very early in spring
Prunus serrulata 'kwanzan' kwanzan cherry	6, 7	Medium	Rounded	20-30'	15-20'	Medium	Deciduous	Deep pink double blooms
Prunus subhirtella var. Autumnalis fall blooming cherry	6b, 7	Medium	Spreading	20-30'	15-25'	Medium	Deciduous	Specimen
Prunus x yedoensis yoshino cherry	6b, 8a	Medium	Weeping	30-40'	15-20'	Medium	Deciduous	Specimen
Quercus myrsinifolia Chinese evergreen oak	7, 8	Medium	Oval	30-40'	20-30'	Slow	Broad- leaved evergreen	Screen, specimen or small street tree
Salix babylonica weeping willow	Entire state	Fine	Weeping	30-40'	25-35'	Fast	Deciduous	Specimen
Salix matsudana 'tortuosa'	Entire state	Fine	Weeping	20-30'	10-15'	Medium to fast	Deciduous	Short-lived

contorted willow								
Vitex agnus-castus chastetree	Entire state	Fine	Vase-shaped	10-15'	10-15'	Fast	Deciduous	Blue flowers in summer

(Ord. No. 2014-07-07, 8-26-2014; Ord. No. 2015-02-01, § 1, 2-10-2015; Ord. No. 2015-08-01, 8-25-2015)

Secs. 14-53—14-77. - Reserved.

ARTICLE IV. - STORMWATER MANAGEMENT

Sec. 14-78. - Joint and cooperative action required.

- (a) The city council believes the city's stream systems are a valuable natural resource that requires joint and cooperative action by the city and the development industry to resolve existing stormwater management and flooding problems, prevention of their worsening or recurrence while utilizing this resource for the good of the entire city.
- (b) The development industry and the city shall cooperate to control water quality and maintain the city's drainage and stream systems from stormwater runoff resulting from development activities.

(Ord. No. 2014-12-05, § 2(14-40), 12-16-2014)

Sec. 14-79. - Standards.

- (a) The city shall require all land development to comply with the criteria, technical specifications, and standards of the Georgia Stormwater Management Manual, as may be hereafter amended. The rainfall intensities used in hydrologic and hydraulic computations shall be those published in the Georgia Stormwater Management Manual.
- (b) Applicability. A combination of storage and controlled release of stormwater runoff shall be required for all development and construction for the entire site which meets one or more of the following criteria:
 - (1) Increases the peak rate of runoff from the site by more than one cubic foot per second for a ten-year frequency storm;
 - (2) Involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of one acre or more;
 - (3) Includes the creation, addition or replacement in redevelopment of 5,000 square feet or more of impervious cover, or that involves other land development activity of one acre or more;
 - (4) Any new development or redevelopment, regardless of size, that meets the definition of a stormwater hotspot; or
 - (5) Land development activities that are smaller than the minimum applicability criteria set forth in subsection (b)1 and 2 of this section if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
 - (6) Land development activities within individual single family lots that are not part of a larger common plan of development that also includes stormwater management facilities for the larger common plan of development, and that involve the creation, addition, or replacement of at least 3,000 square feet of impervious cover, shall provide storage and controlled release of runoff volume equivalent to the "water quality volume" for the site as defined in the Georgia Stormwater Management Manual.
- (c) Exemptions. The provisions of this article shall not apply to the following criteria:

- (1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project unless they meet one of the criteria listed in subsection (b) of this section;
 - (2) Additions or modifications to existing single-family or duplex residential structures unless it meets one of the criteria listed in subsection (b) of this section;
 - (3) Agricultural or silvicultural land management activities within areas zoned for these activities;
 - (4) Repairs to any stormwater management facility or practice deemed necessary by the community development director;
 - (5) The community development director may exempt the owner from those provisions of this article where complete compliance with those specific provisions is physically impossible;
 - (6) If the installation of a stormwater management facility would reduce downstream flood peaks by less than one percent;
 - (7) The requirements, or portions thereof, of subsections (b) and (c) of this section shall not be waived if the community development director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system;
 - (8) A waiver of these minimum runoff quantity control requirements may be granted only after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications, to the development which would alter the approved stormwater runoff characteristics of a land disturbing activity receiving a waiver; and
 - (9) Appeals from the waiver decisions may be taken to the ~~zoning board of appeals~~board of appeals pursuant to the provisions of section 14-26(c).
- (d) If 40 percent of a site is to be redeveloped, all stormwater requirements must be met for the redeveloped area only and the non-disturbed area will be treated as predeveloped prior to the redevelopment. But if more than 40 percent of the site is to be redeveloped, then the entire site must meet all stormwater requirements.
- (e) A downstream peak flow analysis will include the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the Georgia Stormwater Management Manual.
- (f) Detention designs may be rejected by the community development director if they incorporate structures and facilities that will demand considerable maintenance or will be difficult to maintain or will utilize numerous small structures if other alternatives are physically possible.
- (g) Discharge velocities from detention facilities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure as set forth in the approved state stormwater management manual.
- (h) Stormwater management and flood control facilities may include both structural and nonstructural components. Natural or planted vegetation as well as other natural runoff conduits are examples of these non-structural components and shall be retained where practicable. In addition, these components must provide for or enhance stormwater quantity or quality control or other stormwater benefits.

- (i) The drainage system being developed shall have adequate capacity to accommodate the flow from all upstream areas for a 100-year storm event.
- (j) The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flows from the site, then the design engineer must design drainage facilities with the capacity to over-detain flows so they can be accommodated by the existing downstream conveyance structures whereby allowing the existing downstream system to operate correctly. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer shall obtain these easements.
- (k) A landscaping plan shall be submitted for all detention and other storage facilities as part of the overall drainage plan.
- (l) Land uses within the intermediate regional floodplain shall not diminish or restrict the capacity of the channels or floodplains of the stream, its tributaries, drainage ditches or any other stormwater management facilities or systems and shall not increase the IRF elevation or velocity or concentration of flow in downstream areas. The development permit shall be denied if the required hydrologic studies reveal that a request for filling or grading within the intermediate regional floodplain would overload the capacity of the channel downstream or increase flood stages upstream, unless equivalent flow and storage capacity is replaced and maintained by the owner within the intermediate regional floodplain. Altered sections of the intermediate regional floodplain shall have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.
- (m) Excavation within floodplain areas shall not be permitted unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain shall be maintained. The area of compensation within the floodplain shall be considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no-rise certification requirements. The amount of compensation shall be limited to 300 cubic yards per acre of floodplain area.
- (n) The live detention storage to be provided shall be calculated on the basis of the 100-year frequency rainfall as published in the Georgia Stormwater Management Manual. The detention system required shall be necessary to handle the runoff of a 100-year rainfall, for any and all durations from the post-development, with a release rate that does not exceed the pre-development release rate during the same duration storm. Detention control structures and other drainage improvements shall be located and designed to prevent erosion damage to adjacent property owners.
- (o) When the applicant requests and the community development director determines that development and construction projects are too small, or that engineering and economic factors make combined detention or other stormwater management facilities more practical, the city may authorize the joint construction of these facilities to serve two or more properties by two or more applicants. This authorization shall be granted by the ~~zoning board of appeals~~board of appeals upon application for approval being submitted through the community development director. Where joint detention facilities serving two or more properties are approved for construction, no use of land or occupancy of buildings within the properties served by these facilities shall be permitted until completion of the detention facility, except upon approval of the ~~zoning board of appeals~~board of appeals.

(Ord. No. 2014-12-05, § 2(14-40), 12-16-2014; Ord. No. 2016-03-02, § 1, 3-22-2016)

Sec. 14-80. - Installation, development and maintenance of control facilities.

The following requirements shall apply to the installation, development and maintenance of all stormwater and sedimentation control facilities designed for temporary storage of stormwater runoff:

- (1) Permanent fencing at least four feet in height shall be required around all facilities having a temporary water storage depth of greater than four feet or those designated by the board of health as constituting a public health hazard.
- (2) This fencing shall be designed, installed and maintained to allow the free flow of runoff and sediment into the facility. Fencing shall be established on the outside edge of a facility. The fence shall include a gate of sufficient size to permit entrance of equipment necessary to allow periodic maintenance activities. The gate shall be placed in a manner such that the gate does not obstruct reasonable access or become obstructive. The community development director may waive fencing in nonresidential areas where a pond is more than 500 feet from a residential district and in residential districts when detention is provided in natural areas such as stream channels and fencing in the opinion of the community development director would damage the environment or affect stream flow.
- (3) The access easement to the facility shall not have a profile slope steeper than 33 percent and a cross slope of no more than ten percent. The elevation of the maintenance easement around the facility shall be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than ten percent to the drainage facility. Fencing that complies with the requirement of subsection (2) of this section shall be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of subsection (p)2 of this section shall be constructed on each maintenance easement.
- (4) Detention and sedimentation control facilities shall not be placed in any of the following:
 - a. Transitional buffer zones as defined by chapter 27.
 - b. Floodplains.
 - c. Wetlands.
 - d. Stream buffer zones.
 - e. State buffer zones.
- (5) Perforated standpipes or a French drain, in accordance with published design standards available from the community development director, or other methods which will achieve equal performance to prevent standing water and inadequate drainage shall be installed within all the detention and sedimentation control facilities.
- (6) The commercial or multifamily residential property owner shall be responsible for the maintenance of the stormwater management facilities during grading, construction, and following final approval of the completed project. This maintenance and certification obligation shall be binding on all future owners, successors and assigns of the property.
- (7) In the case of single-family residential subdivisions approved after the date of adoption of this provision, and in accordance with the requirements of article III of this chapter, the city shall assume maintenance responsibility one year after the release of the performance bond for subdivision streets. A special drainage district as authorized by the Georgia Constitution, article IX, section II, paragraph VI is established for property in a single-family residential subdivision at the time the plat is finally recorded, and will be so noted on the plat. Upon completion of developer maintenance, all detention ponds shall have a positive slope to the outlet in order to facilitate complete drainage.
- (8) Stormwater management facilities in single-family residential subdivisions constructed under permits issued prior to the amendment of the city ordinance assigning maintenance responsibility will not be accepted for city maintenance unless individually approved by and at the discretion of the community development department and suitable access easements are provided. At the time the community development director accepts a detention facility for city

maintenance, a special drainage district will be established that includes all properties for which the detention facility is designed to compensate for increased peak runoff rates due to development.

(Ord. No. 2014-12-05, § 2(14-40), 12-16-2014)

Sec. 14-81. - Residential district requirements; street elevation.

- (a) In residential districts, not less than 70 percent of the minimum lot area, as established by applicable zoning district development standards, shall be above the intermediate regional flood elevation contours with the exception that lots in the R-150 district shall conform to requirements of the R-100 district.
- (b) The profile elevation of the centerline of all public streets shall be constructed a minimum of one foot above the intermediate regional flood elevation contours. The community development director may grant exceptions to this provision in cases where construction of the street elevation is below the intermediate regional flood elevation and elevation contours would improve drainage or reduce the effects of flooding.

(Ord. No. 2014-12-05, § 2(14-40), 12-16-2014)

Sec. 14-82. - Special drainage system maintenance requirements.

Special drainage system maintenance requirements are as follows:

- (1) Pursuant to chapter 25, article VI, as amended, trash, garbage, construction materials, construction by-products or other debris shall not be deposited in any part of the drainage system.
- (2) No restriction or barriers, including fences, may be placed in the drainage system or intermediate regional floodplain without first obtaining a development permit. When on-site or off-site debris has accumulated within an intermediate regional floodplain in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to the intermediate regional floodplain, the community development director shall require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.
- (3) No impoundment of water which retains in excess of 0.5 acre (in feet) of runoff shall be removed without first obtaining a development permit, which shall only be issued after competent engineering studies provided by the applicant show that this removal will not adversely affect downstream properties.
- (4) No permanent structures or additions shall be constructed within the intermediate regional floodplain other than those non-building facilities required or authorized by the community development director which will not conflict with the hydrologic design characteristics of the approved development and construction plans. Land within the intermediate regional floodplain may be used to meet setback, yard, open space and buffer requirements in accordance with applicable provisions of chapter 27 and the buffer requirements of this chapter.

(Ord. No. 2014-12-05, § 2(14-40), 12-16-2014)

Secs. 14-83—14-107. - Reserved.

ARTICLE V. - WATER QUALITY CONTROL

Sec. 14-108. - Purpose and intent.

The purpose of this article is to control the water quality of storm runoff from all development and construction activities and all developed sites.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-109. - Standards.

- (a) New development and redevelopments in city shall be designed in accordance with recommendations of this article and the Georgia Stormwater Management Manual.
- (b) At a minimum, new projects shall include stormwater quality provisions and the BMPs necessary to accomplish each of the following:
 - (1) Water quality BMPs must be installed on all developments to improve the water quality of the storm runoff from the development site. Stormwater management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove 80 percent of the average annual post-development total suspended solids load. As a minimum, the runoff from the first 1.2 inches of rainfall must be treated. Acceptable BMPs for treating stormwater runoff are set forth in the Georgia Stormwater Management Manual.
 - (2) BMPs shall be used to control discharges into the local drainage system of any organic or inorganic matter that cause or tend to cause pollution of such waters.
 - a. Minimization of impervious areas within developments and minimization of impervious areas directly connected to the local drainage system is encouraged as a non-structural BMP for water quality and quantity control.
 - b. A plan shall be provided to protect all existing wetland/floodplain areas within the development site.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-110. - Drainage plans.

- (a) The following performance criteria shall be used by the city in evaluating all drainage plans, unless otherwise provided for in this section:
- (b) Water quality. All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
 - a. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
 - b. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and
 - c. Runoff from a stormwater hotspot and activities identified by city are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-111. - Stream channel protection.

Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

- (1) Preservation, restoration or reforestation (with native vegetation) of the applicable stream buffer;
- (2) 24-hour extended detention storage of the one-year, 24-hour return frequency storm event;
- (3) Erosion prevention measures such as energy dissipation and velocity control.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-112. - Overbank flooding protection.

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

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-113. - Extreme flooding protection.

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

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-114. - Structural stormwater controls.

All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the state stormwater management manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the state stormwater management manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the community development director before being included in the design of a stormwater management system.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-115. - Stormwater credits for nonstructural measures.

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

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Sec. 14-116. - Drainage system guidelines.

Stormwater conveyance facilities, which may include, but are not limited to, culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites or public rights-of-way. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

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

(Ord. No. 2014-12-05, § 2(14-42), 12-16-2014)

Sec. 14-117. - Groundwater recharge area.

Development within groundwater recharge areas, as delineated by the state department of natural resources' (DNR) Significant Recharge Areas, Hydrological Atlas 18 (1989 Edition) and the DNR's Pollution Susceptibility Map, shall meet the criteria for the protection of groundwater recharge areas established in chapter 391-3-16-.02 of the DNR's Rules for Environmental Planning Criteria.

(Ord. No. 2014-12-05, § 2(14-43), 12-16-2014)

Secs. 14-118—14-147. - Reserved.

ARTICLE VI. - STREAM BUFFER PROTECTION

Sec. 14-148. - Findings and purpose.

(a) *Findings.* Whereas, the mayor and city council of city find that buffers and impervious setbacks adjacent to streams provide numerous benefits including:

- (1) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources;
- (2) Removing pollutants delivered in urban stormwater;
- (3) Reducing erosion and controlling sedimentation;
- (4) Protecting and stabilizing stream channels and banks;
- (5) Providing for infiltration of stormwater runoff;
- (6) Maintaining base flow of streams;
- (7) Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
- (8) Providing tree canopy to shade streams and promote desirable aquatic habitat;
- (9) Providing riparian wildlife habitat;
- (10) Furnishing scenic value and recreational opportunity; and
- (11) Providing opportunities for the protection and restoration of green space.

(b) *Purpose.* It is the purpose of this article to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

- (1) Create buffer zones and impervious setbacks along the streams of the city for the protection of water resources; and
- (2) Minimize land development within such buffers and land disturbance within such impervious setbacks by establishing buffer and setback zone requirements and by requiring authorization for any such activities.

(Ord. No. 2014-01-05, att.(14-44.2), 3-25-2014)

Sec. 14-149. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Buffer means the area defined in section 14-153(a)(1).

Ephemeral stream means a stream that, under normal circumstances, has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year-round; for which groundwater is not a source of water; and for which temporary runoff from precipitation is the primary source of water flow.

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

Impervious cover means those areas, which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to land development. Impervious cover includes, but is not limited to, rooftops, buildings, parking lots, driveways, streets, roads, decks (other than elevated slatted decks), swimming pools, patio areas, paved storage areas, compacted gravel areas, awnings and any concrete or asphalt areas.

Impervious setback means the setback area defined in section 14-153(a)(2).

Land development means any land change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land in connection with the construction, paving and any installation of impervious cover.

Land development activity means those actions or activities which comprise, facilitate or result in land development.

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

Land disturbance activity means those actions or activities which comprise, facilitate or result in land disturbance.

Parcel means any plot, lot, parcel, tract or acreage shown as a unit on either the latest county tax assessment records or other area of land legally established by plat or subdivision.

Permit means the permit issued by the city required for undertaking any land development or land disturbance activity.

Protection area or stream protection area means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

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

Setback means, with respect to a stream, the area established by section 14-153(a)(2) extending beyond any buffer applicable to the stream.

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state, which are not entirely confined and retained completely upon a parcel. Ephemeral streams are not considered state waters for the purpose of this article.

Stream means any natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, except that an ephemeral stream is not a stream.

Stream channel means the confining cut of ground surface that contains the base flow of a stream and is identified at a point where the water flow has wrested the vegetation.

Unusual circumstances means:

- (1) The shape, topography or other physical conditions of the parcel prevents land development in a manner consistent with similar situated properties within the proximity of the parcel;
- (2) Circumstances constituting force majeure; or
- (3) Any rehabilitation or reconstruction by a parcel owner of an impervious cover existing within the buffer described in section 14-153(a)(1).

Watershed means the land area that drains into a particular stream.

Wrested vegetation means the point adjacent to the edge of the base flow of a stream or the water surface of a lake where vegetation has been moved or wrested as a result of normal stream flow or wave action.

(Ord. No. 2014-01-05, att.(14-44.3), 3-25-2014)

Sec. 14-150. - Applicability.

This article shall apply to all land development and land disturbance activity on any parcel containing a stream protection area. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.
(Ord. No. 2014-01-05, att.(14-44.4), 3-25-2014)

Sec. 14-151. - Grandfather provisions.

This article shall not apply to the following activities:

- (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of the ordinance from which this article is derived.
- (2) Land disturbance permits issued by the city pursuant to this Code prior to the effective date of this article and all ongoing agriculture, silviculture, landscaping, gardening, golf course maintenance, lawn maintenance and other land disturbance activities not requiring permits under this article or any other provision of the Code; provided, however, any new land development or land disturbance activities on such properties shall be subject to this article.
- (3) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of the ordinance from which this article is derived.
- (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved since December 28, 2000, by the city or the county except that such phased development activity must be submitted for approval within five years of the effective date of the ordinance from which this article is derived.
- (5) Construction, reconstruction, replacement, or redevelopment of existing impervious areas located within any setback described in section 14-153(a)(2).

(Ord. No. 2014-01-05, att.(14-44.5), 3-25-2014)

Sec. 14-152. - Exemptions.

The following specific activities are exempt from this article. Exemption of these activities does not constitute an exemption for any permit or any other activity proposed on a parcel.

- (1) Activities for the purpose of building one of the following:
 - a. A stream crossing by a driveway, transportation route or utility line;
 - b. Public water supply intake or public wastewater outfall structures;
 - c. Intrusions necessary to provide access to a parcel;
 - d. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - e. Unpaved foot trails and paths;
 - f. Impervious public trails and paths, including appurtenances consistent with the use thereof, that are installed by or at the direction of the city; provided, however, mitigation measures to offset the effects of the proposed impervious public trail or path shall be required in connection with the development thereof;
 - g. Activities to restore and enhance stream channel and bank stability, vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used; or

- h. The removal of dead, dying, diseased, or hazardous trees, provided, however, no grading or stump removal shall be conducted.
- (2) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the stream channel. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including, but not limited to, manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in subsection (1) of this section.
- (3) Land development activities within a right-of-way existing at the time the ordinance from which this article is derived takes effect or approved under the terms of this article.
- (4) Within an easement of any utility existing at the time the ordinance from which this article is derived takes effect or approved under the terms of this article, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including, but not limited to, manholes, vents and valve structures.
- (5) Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the office of the community development director on the next business day after commencement of the work. Within ten days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the community development director to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
- (6) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire parcel for three years after the end of the activities that intruded on the buffer.
- (7) Projects defined in O.C.G.A. § 12-7-17(3) that would be considered minor land-disturbing activities that are exempt from the Georgia Soil and Sedimentation Act:
"Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion."
 - 1. After the effective date of the ordinance from which this article is derived, the buffer requirements and the setback requirements stipulated herein shall apply to new subdivisions and site plans or any other construction, land development or land disturbances in the proximity of a stream, whether or not the stream is located within the parcel where the activity is proposed.
 - 2. Any land development activity within a buffer or setback established hereunder is prohibited unless a variance is granted pursuant to section 14-153(b). Any land disturbance activity within a setback established hereunder is prohibited unless an administrative variance is granted pursuant to section 14-153(c). The forgoing two sentences shall not be applicable where the activity described in either is otherwise exempt or grandfathered pursuant to section 14-151 or this section.
 - 3. After the final stabilization of a site is achieved in accordance with the regulations promulgated by the state environmental protection division, a buffer or a setback may be thinned or trimmed with hand tools of vegetation by the owner of the parcel as long as sufficient protective vegetative cover remains to protect water quality and

aquatic habitat and a natural tree canopy is left in sufficient quantity to keep shade on the stream bed.

(Ord. No. 2014-01-05, att.(14-44.6), 3-25-2014)

Sec. 14-153. - Land development requirements.

(a) *Buffer and setback requirements.* All land development and land disturbance activity subject to this article shall meet the following requirements:

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both sides of the stream channel as measured from the point of wrested vegetation.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. All permitted land disturbance activity shall be minimized within the setback. In allowing for such activity, the provision for retaining walls or other topographical enhancements to limit of the area of land disturbance activity within the setback, may be required and approved by the community development director as part of the administrative variance procedure in subsection (a)(2) of this section, subject to the approval of the city engineer.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

(b) *Variance procedure; application.* A variance from the prohibition of land development within the above buffer or setback requirements may be granted in accordance with the following provisions:

- (1) If, due to unusual circumstances, the strict adherence to the minimal buffer or setback requirements in this article would adversely affect the parcel owner, in a material manner, upon application by the parcel owner the city council or the ~~zoning board of appeals~~board of appeals of the city may grant a variance from the buffer and setback requirements hereunder after the conduct of a public hearing and such variance includes conditions requiring mitigation measures to offset the effects of the proposed land development on the parcel; provided, however, a variance will not be considered when, following the adoption of this article, actions of any owner of a given parcel have created conditions of an unusual circumstance on that parcel. A variance granted for a land development activity shall only include the area within in the buffer or impervious setback necessary to alleviate the effect of an unusual circumstance. At a minimum, the mitigation for encroachment into the buffer or setback shall include:
 - a. The provision for stormwater management and water quality control measures pursuant to sections 14-78, 14-79 and article V of this chapter for 100 percent of the total existing and proposed impervious areas on the parcel; provided, however, in adopting such measures, the exemptions in section 14-79(c) are not available for purposes of this section. The proper installation of the stormwater management and water quality measures shall be certified by a registered engineer prior to the issuance of a certificate of occupancy or final site inspection approval for the improvements contained within the parcel; and
 - b. The planting of one 2.5-inch caliper tree of a similar type on the parcel, in addition to any other trees that are required to satisfy the landscape or tree ordinances of the city, for each tree having a diameter of eight inches or greater at breast height that is removed from the buffer or setback area pursuant to an approved variance under this article. In addition, at the discretion of the community development director, the parcel owner may be required to provide additional mitigation measures, including off-site mitigation measures in the same drainage basin, if the minimum on-site mitigation measures are not

considered sufficient to compensate fully for the loss of water quality protection resulting from the encroachment into the buffer or setback.

- (2) The city council as part of a concurrent variance application permitted pursuant to Chapter 27 or the ~~zoning board of appeals~~board of appeals of the city shall grant no variance from any provision of this article without first conducting a public hearing on the application. The city shall give public notice of each such public hearing in a newspaper of general circulation within the city. The city shall notify by U.S. Mail, first class postage prepaid, all property owners within 500 feet of the boundaries of the subject parcel that a variance pursuant to this article is being requested including the nature of the proposed application, hearing date, time, and location at least 15 days prior to the public hearing and shall post a sign giving notice of the proposed variance and the public hearing date, time, and location no less than 15 days and no more than 45 days from the date of the public hearing. The sign shall be of a size and posted in such a location on the parcel as to be clearly visible from the primary adjacent road right-of-way. The community development director or the city engineer shall prepare and submit to the city council or ~~zoning board of appeals~~board of appeals a technical analysis on the applicant's mitigation measures, alternative designs and explanations of why an alternative plan is not possible. The community development director or designated representative shall be present at any such variance hearing and the city council or board shall consider the staff analysis when granting any variance or relief from the requirements of this article.
- (c) *Variance procedures; application for an administrative variance.* A variance from the prohibition of land disturbance within the above setback requirement may be granted by the community development director in accordance with the following provisions:
 - (1) The parcel owner shall make an application of the variance with the office of the community development director.
 - (2) The city shall:
 - a. Notify by U.S. Mail, first class postage prepaid, all property owners within 500 feet of the boundaries of the subject parcel that a variance is being requested which notice shall include a description of the variance requested in the application and the mailing address and business telephone number of the community development director for the transmittal of comments within 15 days of the date of the notice; and
 - b. On the same date of such mailing, post a sign giving notice of the proposed variance and the mailing address and business telephone number of the community development director for the transmittal of comments within 15 days of the date of the sign posting. The sign shall be of a size and posted in such a location on the parcel as to be clearly visible from the primary adjacent road right-of-way.
 - (3) The community development director shall render a decision regarding the application no earlier than 15 days of the date of the parcel owner's notice required in subsection (b)(2) of this section and no later than 45 days from the date of such notice and in granting any such variance may require such conditions necessary to mitigate the effect of the land disturbance activity.
 - (4) An adverse decision by the community development director is appealable to the ~~zoning board of appeals~~board of appeals by application for appeal thereto no later than 30 days from the date of the adverse decision.
 - (5) A variance granted for a land disturbance activity shall:
 - a. Only include the area within the impervious setback necessary to alleviate the effect of an unusual circumstance; and

- b. Include mitigation measures that are at least as protective of the natural resources and environment in a manner no less than such as present as of the date of the variance request.
- (d) *Required submittals for any variance request.*
- (1) A buffer or setback variance request shall include the following:
 - a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey, including those state waters, wetlands and floodplain boundaries located on adjacent parcels that lie within 75 feet of the boundaries of the subject parcel;
 - b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the parcel;
 - c. A site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land development or land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - d. Documentation of the adverse, material hardship should the buffer be maintained;
 - e. At least one alternative plan, which does not include a buffer or setback intrusion, and includes an explanation of why such alternative plan is not feasible;
 - f. A calculation of the total area and length of the proposed intrusion;
 - g. A stormwater management site plan; and
 - h. Proposed mitigation for the intrusion.
 - (2) The following will be considered in requests for a variance:
 - a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the parcel;
 - b. The locations of all streams on the parcel, including along parcel boundaries and within adjacent parcels;
 - c. The location and extent of the proposed buffer or setback intrusion;
 - d. Whether alternative designs are possible which require less intrusion or no intrusion;
 - e. The water-quality impacts of the proposed variance; and
 - f. Whether the proposed mitigation compensates for the lost buffer or setback functions and otherwise maintains the function of the required buffer or setback at the same site where the impact will occur and provides at least the same protection of the water quality as provided by the natural features to be disturbed or removed.

(Ord. No. 2014-01-05, att.(14-44.7), 3-25-2014; Ord. No. 2014-10-01, § 1, 10-28-2014)

Sec. 14-154. - Compatibility with other buffer regulations and requirements.

This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of federal, state or local law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health and welfare and the environment shall be considered to take precedence.

(Ord. No. 2014-01-05, att.(14-44.8), 3-25-2014)

Sec. 14-155. - Additional information requirements for development on buffer zone properties.

Any permit application for a parcel requiring buffers and setbacks hereunder must include the following:

- (1) A site plan showing:

- a. The location of all streams on the parcel or on adjacent parcels within 75 feet of the boundaries of the subject parcel;
 - b. Limits of required buffers and setbacks on the parcel;
 - c. Buffer zone topography with contour lines at no greater than five-foot contour intervals;
 - d. Delineation of existing impervious areas, forested and open areas in the buffer zone or setback;
 - e. Detailed plans of all proposed land development in the buffer and setback and of all proposed land disturbance within the setback; and
 - f. Tree save fencing at the limits of the proposed disturbance where the proposed disturbance is within or adjacent to the stream protection area;
- (2) A written description of the need for all proposed land development within the buffer and setback and land disturbance with the setback; and
- (3) Any other documentation that the city may reasonably deem necessary for review of the application and compliance with this article.
- (Ord. No. 2014-01-05, att.(14-44.9), 3-25-2014)

Sec. 14-156. - Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the city, its elected officials, officers or employees, for injury or damage to persons or property. All permits issued by the city which do not comply with this article are ultra vires and the work permitted thereby is subject to both a stop work order and order to remediate the land disturbance so permitted without the imposition of any liability upon the city, its elected officials, officers or employees, for injury or damage to persons or property.

(Ord. No. 2014-01-05, att.(14-44.10), 3-25-2014)

Sec. 14-157. - Inspection.

- (a) The city may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The holder of the permit shall assist the city in making such inspections. The city shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development or land disturbance activities within the protection area.
- (b) No person shall refuse entry or access to any authorized representative or agent of the city who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative or agent while in the process of carrying out official duties.

(Ord. No. 2014-01-05, att.(14-44.11), 3-25-2014)

Sec. 14-158. - Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this article or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- (1) *Notice of violation.* If the city determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured the appropriate permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the parcel. The notice of violation shall contain:
 - a. The name and address of the owner or the applicant or the responsible person;
 - b. The address or other description of the parcel upon which the violation is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this article and the date for the completion of such remedial action;
 - e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - f. A statement that the determination of violation may be appealed to the zoning board of appeals by filing a written notice of appeal within 15 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).
- (2) *Enforcement.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the city shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city may take any one or more of the following actions or impose any one or more of the following penalties:
 - a. *Stop work order.* The city may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
 - b. *Withhold certificate of occupancy.* The city may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the parcel until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - c. *Suspension, revocation or modification of permit.* The city may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the city may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- d. *Penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the city shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) after the city has taken one or more of the actions described above, the city may issue a citation to the applicant or other responsible party required such party to appear in municipal court to answer charges for such violation. Any violation of this article is punishable upon conviction according to the provision of section 1-11. Each day any violation of this article shall continue shall constitute a separate offense.

(Ord. No. 2014-01-05, att.(14-44.12), 3-25-2014)

Sec. 14-159. - Appeals and judicial review.

Appeals of decisions of the community development director or the ~~zoning board of appeals~~board of appeals, as the case may be, are to be made pursuant to the sections 27-1661 and 27-1670, respectively.

(Ord. No. 2014-01-05, att.(14-44.13), 3-25-2014)

Secs. 14-160—14-186. - Reserved.

ARTICLE VII. - SUBDIVISIONS

DIVISION 1. - GENERALLY

Sec. 14-187. - Policies and purposes.

(a) *Policies.* The following policies apply to this article:

- (1) It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided land in order to promote the orderly, planned, efficient, and economic development of the city.
- (2) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- (3) It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the building code, zoning ordinance, the comprehensive plan, and official zoning map.

(b) *Purposes.* These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety, and general welfare of the city.
- (2) To guide the future growth and development of the city in accordance with the comprehensive plan.
- (3) To protect and conserve the value of land and the economic stability of all communities in the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques, including consideration of the timing and sequencing of development, consideration of infill development in existing neighborhoods and nonresidential areas with adequate public facilities.
- (4) To guide public policy and both public and private actions in order to provide adequate and efficient transportation, schools, parks, playgrounds, recreation, and public services and support facilities.
- (5) To provide for the safe and efficient circulation of traffic throughout the city, having particular regard to avoidance of congestion in the streets and highways and the pedestrians and bicycle

traffic movements, and to provide for the proper location and width of streets and building lines.

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

(Ord. No. 2014-10-02, § 1(14-56))

Sec. 14-188. - Public purpose.

Regulation of the subdivision of land and the attachment of reasonable regulations to land subdivision is an exercise of valid police power delegated by the state to this city. A developer of land has the duty of compliance with the regulations set forth herein for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the city and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

(Ord. No. 2014-10-02, § 1(14-57))

Sec. 14-189. - Interpretation.

In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted. Any conflict between provisions should be resolved in the way that best serves the purposes of the regulations.

(Ord. No. 2014-10-02, § 1(14-58))

Sec. 14-190. - Scope and applicability.

Except as provided in section 14-191, these regulations shall apply to all subdivision of land, or any division or redivision of a lot, tract or parcel, regardless of its existing and future use, into two or more lots, tracts or parcels, within the corporate limits of the city.

(Ord. No. 2014-10-02, § 1(14-59))

Sec. 14-191. - Exemptions.

- (a) This article does not apply to the division or sale of land by judicial decree.
- (b) For purposes of this article, the division of land into two lots shall be considered a subdivision but exempt from the plat review procedures provided that:
 - (1) Each proposed lot complies with the requirements of chapter 27 and all conditions of zoning;
 - (2) Each proposed lot fronts an existing paved public street, which contains the necessary right-of-way width required by this chapter;
 - (3) All such plats are drawn to final plat standards in this chapter; and

- (4) The lot being divided is not a lot which resulted from a subdivision of property that was exempt from these regulations in the immediately preceding 24 months.
(Ord. No. 2014-10-02, § 1(14-60))

Sec. 14-192. - Plats not to be recorded until approved; lots not to be sold in unapproved subdivision.

No person shall record any subdivision plat until it has been approved by the community development director or the director's designee, nor shall any lot be sold by reference to any subdivision plat whether recorded or not, if the plat is made after the effective date of the ordinance from which this chapter is derived, unless it shall have been approved by the community development director, or his designee. The recording of a plat shall be based on an approved plat.
(Ord. No. 2014-10-02, § 1(14-61))

Sec. 14-193. - Issuance of building permits and certificates of occupancy; extension of services.

No development permit, building permit, or certificate of occupancy shall be issued for a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to extend services to any parcel created in violation of these regulations.
(Ord. No. 2014-10-02, § 1(14-62))

Sec. 14-194. - Power and duty of the city council to hear concurrent variances and the ~~zoning board of appeals~~board of appeals to hear variances; criteria to be used in deciding variances, and appeals.

- (a) The city council or the ~~zoning board of appeals~~board of appeals shall hear and decide applications for variances from the strict application of division 1 of this article VII, known as the subdivision regulations of city, where strict application of any regulation enacted in division 3 of this article VII would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in city; thus, variances from the requirements of division 3 of this article VII shall be authorized only upon making all of the following findings:
- (1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of division 3 of this article VII would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;
 - (2) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;
 - (3) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;
 - (4) The requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located; and
 - (5) The requested variance will not in any manner vary the provisions of chapter 27 or the official zoning map of the city.
- (b) No variance shall be granted to:
- (1) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the city council;
 - (2) Increase the density allowed on the property; or
 - (3) Vary the requirements set forth in sections 14-454 through 14-458.

- (c) Applications for a variance may be submitted to the community development director, or his designee. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.
- (d) Unless otherwise stated in this chapter, the applications for variances for the preliminary plat shall be heard pursuant to chapter 27. All land development activity associated with a proposed variance from a preliminary plat shall cease until a final decision on the variance is made by the ~~zoning board~~ board of appeals.
- (e) The ~~zoning board of appeals~~ board of appeals shall issue a final decision on a variance from the preliminary plat within 60 days after the first public hearing on the variance. If a final decision is not made on a subdivision plat variance in accordance with the time constraints set forth in this section, the variance shall stand disapproved.
- (f) Appeals of variances shall be made by writ of certiorari to the superior court of the county. Any person or entity aggrieved by a variance decision may appeal such decision by filing a petition for writ of certiorari to the superior court of the county. A person shall be considered aggrieved for purposes of this subsection only if:
 - (1) Said person or the person's property was the subject of the action appealed from; or
 - (2) Said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

(Ord. No. 2014-10-02, § 1(14-63))

Sec. 14-195. - Enforcement, violations, and penalties.

- (a) *Generally.* It shall be the duty of the community development director or his designee to enforce this chapter.
- (b) *Violations and penalties.* Any person, firm or corporation violating any of the provisions of these regulations shall be deemed guilty of an offense and upon conviction in municipal court shall be punished as is provided in section 1-11. Each violation of these regulations shall be considered a separate offense. The owner of any structures, buildings, lots or parcels or parts thereof, where anything in violation of these regulations exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.
- (c) *Enforcement.* Appropriate actions and proceedings, including the issuance of stop work orders and actions in a court of law, may be taken by city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

(Ord. No. 2014-10-02, § 1(14-64))

Secs. 14-196—14-213. - Reserved.

DIVISION 2. - PLAT APPROVAL PROCEDURE

Subdivision I. - In General

Sec. 14-214. - Application and preliminary plat required.

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

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

(Ord. No. 2014-10-02, § 1(14-89))

Sec. 14-215. - Required information.

The following existing conditions shall be shown on a preliminary plat:

- (1) *Boundary lines.* Perimeter boundary of the overall tract, bearings and distances, referred the legal point of beginning;
- (2) *Streets on or adjacent to tract.* Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;
- (3) *Contour data.* Topographic contour data at no more than two-foot elevation intervals. The source of this data shall be written on the plat. Existing contour data from the city geographic information system department may be used where available;
- (4) *Tree survey.* A tree survey in compliance with article III of this chapter;
- (5) *Historic resources.* If applicable, any building, structure, site or district identified as historic by the city historic preservation commission, the comprehensive plan, by listing on the state or national register of historic places, or by listing as a national historic landmark;
- (6) *Natural features on tract.* Other conditions on the tract such as stream buffers, state waters, cemeteries, wetlands, existing structures, intermediate regional floodplain boundary, where available, rock outcroppings, and archeological resources;
- (7) *Geographical data.* Numerical and graphic scales, north arrow, land lot and district numbers and lines, city and city names and limit lines;
- (8) *Prior subdivisions.* Name and reference of any formerly recorded subdivision crossing any of the land shown on the plat;
- (9) *Zoning district.* Show zoning district, case number and conditions of zoning;
- (10) *Permits.* Show any special administrative permit number, special land use permit number, or board of appeals case number and conditions;
- (11) *Variances.* Show any administrative variance approvals;
- (12) *Septic tanks.* Show existing septic tank and drain field location or note absence;
- (13) *Sewers.* Show size and location of sanitary sewer mains available;
- (14) *Sewer easements.* Show a sanitary sewer easement with a minimum width of 15 feet of for all city maintained lines not within city right-of-way, unless otherwise required by water and sewer department;
- (15) *Water mains.* Show size and location of water mains and fire hydrants;
- (16) *Water main easements.* Show a water main easement with a minimum width of 15 feet for all city maintained lines not within right-of-way;
- (17) *IRF.* Show on the plan whether FEMA or a city benchmark was used to establish IRF; also identify the location of the benchmark;
- (18) *Wetlands.* Provide wetlands determination from U.S. Army Corps of Engineers;
- (19) *Receiving waters.* Provide distance to and name of receiving waters;
- (20) *Certificate of conformity.* Certification by the applicant that no lots platted are nonconforming or will result in any nonconforming lots;
- (21) *Bury pits.* Show location of any existing inert waste bury pits;

- (22) *Seal*. All sheets of plats must be sealed by a professional engineer, architect, surveyor, or landscape architect currently registered in the state;
 - (23) *Vicinity map*. Vicinity map at a scale of 400 feet to one inch showing the location of the tract with reference to surrounding properties, streets, municipal boundaries, and streams within 500 feet of the tract show zoning districts of adjoining property;
 - (24) *Adjacent properties*. Names of adjoining property owners and the zoning classification of adjacent properties; and
 - (25) *Engineer*. Name, address and phone of developer and engineer on plat.
- (Ord. No. 2014-10-02, § 1(14-90))

Sec. 14-216. - Depiction of proposed physical layout.

The following proposed features shall be shown on the preliminary plat:

- (1) *Title*. The title under which the proposed subdivision is to be recorded, if known, with the name of the property owners and designers and the date of the plat;
- (2) *Street names*. The name of all proposed streets;
- (3) *Rights-of-way*. Street rights-of-way and widths indicated, including any necessary right-of-way required for improvements as shown on the thoroughfare plan;
- (4) *Sidewalks*. All proposed sidewalk and bike lane locations;
- (5) *Lots*. Lot lines, lot numbers, block letters, and the total number of proposed lots within the development;
- (6) *Dedications*. Sites, if any, to be dedicated or reserved for common areas, public parks, open space, schools, playgrounds, multi-use trails, or other public uses, including streets, together with the purpose and the conditions or limitations of these dedications, if any;
- (7) *Yards*. Minimum building setback lines as required under the yard requirements of chapter 27, zoning;
- (8) *Zoning conditions*. All conditions of zoning and proposed deed restrictions shall be recited on the preliminary plat;
- (9) *Corner lots*. Show that corner lots shall have an extra width of not less than 15 feet more than required for interior lots for the zoning district within which they are located;
- (10) *Transitional buffers*. Show transitional buffers, if any, and any required screening fencing;
- (11) *BMPs*. Show conceptual location of stormwater management and water quality BMP facilities on preliminary plat;
- (12) *IRF*. Show proposed IRF contour, spot elevation, if available, and source;
- (13) *Covenants*. Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;
- (14) *Sewer easements*. Show a sanitary sewer easement with a minimum width of 15 feet for all ~~publically~~publicly maintained lines not within city right-of-way;
- (15) *Water main easements*. Show a water main easement with a minimum width of 15 feet for all ~~publically~~publicly maintained lines not within right-of-way;
- (16) *Fire hydrants*. Show new fire hydrants and firelines;
- (17) *Fencing*. Show any required fencing around detention ponds, if required; and
- (18) *Electrical service*. Show whether electrical service will be above ground or underground.

(Ord. No. 2014-10-02, § 1(14-91))

Sec. 14-217. - Scale.

Preliminary plats shall be prepared at an appropriate scale of not more than 100 feet to one inch. Maximum sheet size shall be 24 inches by 36 inches.

(Ord. No. 2014-10-02, § 1(14-92))

Sec. 14-218. - Referral of preliminary plat for review.

- (a) Upon official acceptance of the application and the preliminary plat, the community development director shall initiate the review of the preliminary plat within the city departments to ensure compliance with these regulations.
- (b) The community development director, or his designee, shall approve the preliminary plat, deny approval of the preliminary plat, or recommend revisions to the preliminary plat within 90 days of the official acceptance of a complete application and preliminary plat. If at any time the community development director determines the application is incomplete, the community development director may reject the application and deny the approval of the preliminary plat. If the preliminary plat is denied, the community development director shall provide the reasons for denial in writing and such writing shall be given to the applicant with the denied plat.
- (c) In the event the preliminary plat is denied because revisions are required, the applicant may submit a revised preliminary plat to the community development director. If the applicant fails to submit a revised preliminary plat within 180 days of filing the completed application, the applicant's application and preliminary plat shall be deemed withdrawn. If a revised preliminary plat is not approved within 180 days of filing the completed application, the preliminary plat shall be deemed denied.

(Ord. No. 2014-10-02, § 1(14-93))

Sec. 14-219. - Standards for approval of preliminary plats; approved preliminary plats.

- (a) The community development department shall not approve a preliminary plat unless it is found that:
 - (1) Provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality for purposes of health, emergency, and adequate fire protection for the subdivision proposed;
 - (2) If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
 - (3) Adequate areas have been allocated within a subdivision to meet the regulations in this chapter for the long-term collection, management, and treatment of stormwater;
 - (4) The proposed subdivision is designed to comply with all code and ordinances of the city, including, but not limited to, the floodplain management ordinance, this article, and the stream buffer ordinance, located in articles IV and VIII of this chapter;
 - (5) No platting of lots within the subdivision will create any nonconforming lots or increase the nonconformity of existing nonconforming lots on property within or adjacent to the subdivision; however, this subsection shall not apply if the nonconforming status is due to a government condemnation or acquisition of private property for public use;
 - (6) If the subdivision abuts a state designed highway, all applicable statutory provisions are followed, including the rules of state department of transportation;
 - (7) The proposed subdivision meets all the requirements of this chapter, the official zoning map, and all other standards and regulations adopted by all boards, commissions, agencies, and officials of city and all other applicable laws from other, relevant jurisdictions;
 - (8) A properly issued certificate of appropriateness, when the subdivision or portions thereof lie within a designated historic area that required such a certificate as may be required by state law or this Code;
 - (9) Lot lines have been laid out so as to minimize crossing municipal or city boundaries; and
 - (10) All requirements of sections 14-214 and 14-215 have been fulfilled.

- (b) The director of the community development or his designee may require the applicant to submit a site plan for any lot to demonstrate that the lot contains adequate buildable area that is suitable for the intended use.
- (c) After review of the preliminary plat and related comments, and where, the preliminary plat conforms to all of the requirements of this chapter and chapter 27 of this Code, all conditions of zoning, and any other applicable city regulations or law, the community development director or his designee shall approve the preliminary plat. The following wording for approval shall be shown on the preliminary plat:

This preliminary plat has been submitted to and approved by the community development department of the city, on this _____ / _____ / _____ day of _____ / _____ / _____ / _____ / _____ / _____ / _____.

By: _____ (By Dir.)	
Community development director City	

- (d) Within seven days after approval of the preliminary plat, the community development director or the director's designee shall post a notice of preliminary plat approval sign within the public right-of-way in front of or on the subject property for at least ten consecutive days. A land development permit may not be issued until the ten days have expired. This requirement shall not apply if a site plan for proposed preliminary plat was approved as a condition during a public hearing for a variance or a rezoning on the property.

(Ord. No. 2014-10-02, § 1(14-94))

Sec. 14-220. - Scope of approval approved preliminary plat; digital submission of preliminary plat.

The preliminary plat shall not constitute nor provide assurance of approval of the final plat, but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in this Code. In addition to the paper copies, the preliminary plat shall be submitted to the development department in a digital format acceptable to the city, prior to or simultaneous with an application for a development permit.

(Ord. No. 2014-10-02, § 1(14-95))

Sec. 14-221. - Expiration.

The preliminary plat shall expire 24 months from the date of the approval of the preliminary plat. If 51 percent of linear feet of total road in the entire development shown on the preliminary plat is complete at the expiration of 24 months from the date of the approval of the preliminary plat, then the community development director or the director's designee is authorized to grant a one-time, one-year extension of the approval of the preliminary plat. An expired preliminary plat is null and void and is of no effect. An expired preliminary plat may not be renewed.

(Ord. No. 2014-10-02, § 1(14-96))

Sec. 14-222. - Revised preliminary plat.

If the approved preliminary plat is amended or altered by the applicant, without an approved variance, after approval as a preliminary plat, then the applicant shall be required to re-submit the revised preliminary plat.

(Ord. No. 2014-10-02, § 1(14-97))

Sec. 14-223. - Appeals.

The decision of the community development department or the director's designee to approve or disapprove the preliminary plat may be appealed by an aggrieved person or entity to the city council, on the form prescribed by the community development department. The city council shall hold a hearing on the appeal, and shall issue a decision on the appeal within 60 days of the first hearing on the appeal. The decision of the community development department or the director's designee shall only be reversed upon a finding that the decision was arbitrary or based on an erroneous interpretation of a material fact or section of this chapter. Any aggrieved person from the decision of the city council may appeal by writ of certiorari to the superior court of the county. A person shall be considered aggrieved for purposes of this subsection only if:

- (1) Said person or the person's property was the subject of the action appealed from; or
- (2) Said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

(Ord. No. 2014-10-02, § 1(14-98))

Secs. 14-224—14-254. - Reserved.

Subdivision II. - Final Plat

Sec. 14-255. - Preparation.

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

(Ord. No. 2014-10-02, § 1(14-121))

Sec. 14-256. - Filing; submission of final plat; fee.

The final plat and a fee in the amount established by the city council shall be filed with the city. In addition to paper copies, the final plat and as-built drawings shall also be submitted in a digital format acceptable to the city.

(Ord. No. 2014-10-02, § 1(14-122))

Sec. 14-257. - Bond.

If applicable, prior to the approval of the final plat, the applicant shall be required to present any bond, surety, letter of credit or other acceptable surety for public improvements required by this chapter in article VII, division 4.

(Ord. No. 2014-10-02, § 1(14-123))

Sec. 14-258. - Approval of a final plat.

- (a) The community development director or his designee shall approve or disapprove the final plat within 45 days of receiving the final plat. If the final plat is not approved or denied within 45 days of receipt, the final plat shall be approved automatically and the community development director shall acknowledge and certify such approval. If the final plat is denied, the community development director shall provide the reasons for denial in writing and such writing shall be given to the applicant with the denied plat. If the final plat is approved, the community development director shall place the following wording on the original as follows:

This plat has been submitted to and accepted by the community development department for the city, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the superior court of this circuit.

Dated this _____ day of _____ / _____ / _____ / _____ /
_____ / _____ / _____ / _____ / _____ / _____ /
_____ / _____ / _____ / _____ / _____ / _____ /
_____ / _____ / _____.

By: _____

(b) Final plat acknowledgement and approval by the community development department shall constitute that approval, if any, required in order to file subdivision plats with the clerk of the superior court of the county pursuant to O.C.G.A. § 15-6-67(d).

(Ord. No. 2014-10-02, § 1(14-124))

Sec. 14-259. - Recording.

The applicant shall be required to file the approved final plat with the clerk of the superior court of the county and return a copy of the recorded plat to the community development director or the director's designee. No building permit for the subject property shall be issued without the receipt of the recorded plat.

(Ord. No. 2014-10-02, § 1(14-125))

Sec. 14-260. - Material specifications for drawing.

The final plat shall be composed of Mylar, or other durable, stable, and reproducible drafting medium approved by the community development director and must meet all provisions of the Georgia Plat Act.

(Ord. No. 2014-10-02, § 1(14-126))

Sec. 14-261. - Scale.

Final plats shall be prepared at a scale of not more than 100 feet to one inch and shall have a maximum sheet size of not more than 24 inches in width and 36 inches in length, and a minimum sheet size of not less than 17 inches in width and 21 inches in length.

(Ord. No. 2014-10-02, § 1(14-127))

Sec. 14-262. - Compliance with zoning ordinance.

The final plat shall comply with the requirements of chapter 27 and all conditions of zoning for the subject property shall be shown in the upper right corner of the final plat with text height at a minimum of 0.18 inches for 24-inch by 36-inch sheet size and 0.09 inches for 17-inch by 21-inch sheet size.

(Ord. No. 2014-10-02, § 1(14-128))

Sec. 14-263. - Required information.

The final plat shall show the following:

- (1) Sufficient data to determine readily and reproduce on the ground the location, bearings and lengths of every right-of-way, street line, lot line, boundary line and building line, whether curved or straight;
- (2) Tract boundary lines, land lot and district lines, city and city limit lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;
- (3) All dimensions shall be accurate to the nearest one hundredth of a foot and all angles accurate to the nearest second;

- (4) Name and right-of-way width of each street including necessary right-of-way required for present or future widening of major, minor, collector, residential or other streets as shown on the thoroughfare plan;
- (5) Sidewalk and bike path locations and width;
- (6) House numbers will be assigned by the geographic information system department and placed on the final plat by the community development department;
- (7) Title, north arrow, date, scale, land lot numbers and district numbers;
- (8) Location, dimensions and purpose of easements and areas to be dedicated to public use, common areas or sites for other than residential use with notices stating their purpose and limitations;
- (9) Intermediate regional floodplain contour line and setback line required by this chapter, state waters/state streams, wetlands, and required stream buffers;
- (10) Water and sewer utility locations, and the location and type of permanent stormwater management facilities and water quality facilities;
- (11) Lots numbered in numerical order and blocks lettered alphabetically; all lot and block numerals shall be kept in a uniform sequence on all plats and units of the subdivision;
- (12) Accurate location, material and description of monuments and markers; within each subdivision set one monument on two front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument shall be a minimum four-inch diameter disk by 24-inch-high concrete monument with brass caps set flush with finished grade; and
- (13) Lots which shall not be built upon until detailed plans for grading and drainage have been approved by the development director.

(Ord. No. 2014-10-02, § 1(14-129))

Sec. 14-264. - Space for comments; certifications.

A blank space of 50 square inches shall be provided on the final plat to allow room for any stamps, notes, approval or denials by the community development department.

(Ord. No. 2014-10-02, § 1(14-130))

Sec. 14-265. - Surveyor's and owner's acknowledgments.

The following wording for the engineer's [surveyor's] and owner's acknowledgments shall be shown and certified on the final plat:

(1) *Surveyor's acknowledgment.*

In my opinion, this plat, drawn by me or under my supervision, was made from an actual survey, and is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.

_____/_____/_____ R.L.S. No. _____

(2) *Owner's acknowledgment.*

I, _____, the owner of the land shown on this plat and whose name is subscribed hereto, acknowledges that this plat was made from an actual survey, and for value received the sufficiency of which is acknowledged, do convey all streets indicated as public streets and rights-of-way, and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, the owner further releases and holds harmless city from any and all claims, damages or demands arising on account of the design, construction and maintenance of the property shown hereon; on account of the roads, fills, embankments,

ditches, cross-drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

And further the owner warrants that he owns fee simple title to the property shown hereon and agrees that city shall not be liable to him, his heirs, successors or assigns for any claims or damages resulting from the construction or maintenance of cross-drain extensions, drives, structures, streets, culverts, curbs or sidewalks, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do bind myself and owners subsequent in title to defend by virtue of these present.

In witness whereof, I have hereunto set my hand this _____ / _____ /
 _____ day of _____ / _____ / _____ /
 _____ / _____ / _____ / _____ /
 _____ / _____ / _____ / _____ /
 _____ / _____ / _____ / _____.

(SEAL)
 (Owner) _____

Witness: _____ Notary Public	
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(Ord. No. 2014-10-02, § 1(14-131))

Sec. 14-266. - Appeals.

The decision of the community development department or the director's designee to approve or disapprove the final plat may be appealed by an aggrieved person or entity to the city council, on the form prescribed by the community development department. The city council shall hold a hearing on the appeal, and shall issue a decision on the appeal within 60 days of the first hearing on the appeal. The decision of the community development department or the director's designee shall only be reversed upon a finding that the decision was arbitrary or based on an erroneous interpretation of a material fact or section of this chapter. Any aggrieved person from the decision of the city council may appeal by writ of certiorari to the superior court of the county. A person shall be considered aggrieved for purposes of this section only if:

- (1) Said person or the person's property was the subject of the action appealed from; or
- (2) Said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

(Ord. No. 2014-10-02, § 1(14-132))

Secs. 14-267—14-295. - Reserved.

Subdivision III. - Revised Final Plat

Sec. 14-296. - Procedure.

- (a) When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant shall confer with the community development director. The applicant's surveyor shall make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording shall be noted on the new plat. If the original final

plat is not available, then any proposed revision to the final plat shall be considered a major change.

- (b) A minor change is one that corrects a drafting or scrivener's error or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, changing or moving lot lines, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.
 - (c) If the community development director determines the change is minor, then the community development director approve the revised final plat, and shall file such revised plat with the clerk of superior court.
 - (d) If the community development director determines the change is major, the revised plat must proceed through the approval process for final plats described in this Code.
- (Ord. No. 2014-10-02, § 1(14-146))

Sec. 14-297. - Requirements of revised final plat.

The revised plat must meet the requirements of a final plat listed in this division.

(Ord. No. 2014-10-02, § 1(14-147))

Sec. 14-298. - Inclusion of required wording.

The revised plat shall show the following wording in black ink:

This revised plat has been submitted to the community development department of city, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the superior court of this circuit. This plat is approved subject to any protective covenants shown hereon.

Dated this _____ day of _____ / _____ / _____ / _____ /
_____ / _____ / _____ / _____ / _____

Community development director City	

(Ord. No. 2014-10-02, § 1(14-148))

Sec. 14-299. - Original protective covenants not to be changed.

All revisions to original plats shall be bound by the protective covenants on the original final plat and a statement to that effect shall be noted in black ink on the revised plat unless noted otherwise.

(Ord. No. 2014-10-02, § 1(14-149))

Sec. 14-300. - City may require additional data.

Other data which may be required in support of a revised final plat are: a final engineering design report on proposed revisions and such other certificates, affidavits, endorsements, or dedications as may be required by city officials in the enforcement of this chapter.

(Ord. No. 2014-10-02, § 1(14-150))

Secs. 14-301—14-318. - Reserved.

DIVISION 3. - DESIGN STANDARDS

Subdivision I. - In General

Sec. 14-319. - Adequate public facilities.

The applicant shall submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

- (1) *Water.* All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.
- (2) *Wastewater.* All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.
- (3) *Stormwater management.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding as required under sections 14-78 and 14-79. Stormwater quality management facilities shall be adequate as required by article IV of this chapter. City may require the use of control methods such as retention or detention, and or the construction of off-site drainage improvements to mitigate the impacts of the proposed developments.
- (4) *Roads.* Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation, shall be properly related to the comprehensive plan, and shall be appropriate for the particular traffic characteristics of each proposed development.
- (5) *Extension policies.* All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure.

(Ord. No. 2014-12-06, § 1(14-166), 12-16-2014)

Secs. 14-320—14-341. - Reserved.

Subdivision II. - Streets

Sec. 14-342. - Applicability; conformance to design and location.

- (a) The provisions of this part apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from city.
- (b) The arrangement, character, extent, width, grade and location of all subdivision streets shall conform to the provisions of this chapter and to the thoroughfare plan. The thoroughfare plan means the thoroughfare plan adopted by the county, as amended. New streets shall be designed and located with consideration of their relation to existing and planned streets, to topographical conditions, to public convenience and safety in their appropriate relation to the proposed uses of the land to be served by the streets.

(Ord. No. 2014-12-06, § 1(14-181), 12-16-2014)

Sec. 14-343. - Subdivisions bordering on or containing arterial streets, railroad right-of-way or limited-access highway right-of-way.

Where a subdivision borders on or contains an arterial street (major thoroughfares, and minor thoroughfares), a railroad right-of-way or limited-access highway right-of-way, the community development director or designee may require the following:

- (1) Rear service alleys to facilitate traffic flow, safety and public services;

- (2) Provision of one or a pair of smaller marginal access streets approximately parallel to and on each side of this right-of-way at a distance suitable for the appropriate use of the intervening land as park or open space and to provide for multipurpose trails. These distances shall also be determined with due regard for the requirements of approach grades and future grade separations; or
- (3) In the case of limited-access highways only, reverse frontage lots may be created with landscape buffers and a non-access reserve strip along the rear property line.

(Ord. No. 2014-12-06, § 1(14-185), 12-16-2014)

Sec. 14-344. - Street spacing.

The right-of-way for new public streets or the minimum required easement/common area for new private streets must be located a minimum of 50 feet from any peripheral property line adjoining residentially zoned property, unless inter-parcel access is required.

(Ord. No. 2014-12-06, § 1(14-186), 12-16-2014)

Sec. 14-345. - Street intersection spacing.

Street intersections with centerline offsets of less than 125 feet as shown in the city standards for construction and design shall be prohibited in subdivisions.

(Ord. No. 2014-12-06, § 1(14-187), 12-16-2014)

Sec. 14-346. - Intersections—Right angles.

Street intersections in subdivisions shall be as nearly at right angles as practicable. No interior angle shall be less than 75 degrees. Intersections or more than two streets shall be designed according to the specific types illustrated in the city standards for construction and design.

(Ord. No. 2014-12-06, § 1(14-188), 12-16-2014)

Sec. 14-347. - Same—Property line to be curved or mitered.

At each street intersection in a subdivision, the property line at each block corner shall either be mitered or rounded. A mitered property line shall be located on the interior chord of a convex curve or located 15 feet inside the tangent of a concave curve. A rounded property line shall be established with a curve of radius R varying with the interior angle as specified in the following table, unless sufficient data is presented to show that strict adherence to this requirement is impractical due to topographical or engineering considerations.

Table of Intersection Returns

Interior Angle in Degrees	R	R
150—145	12	15
145—140	12	18
140—135	12	20
135—85	12	25
85—75	20	40
75—65	30	70
65—55	40	80
55—45	50	100

45—0	75	140
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(Ord. No. 2014-12-06, § 1(14-189), 12-16-2014)

Sec. 14-348. - Traffic improvements, street improvements, curb cuts, visibility requirements, and private street construction standards.

- (a) Each building shall be located on a lot or parcel that abuts a public street or private street. Private streets shall only be allowed if the development seeking to have a private streets is ten acres or larger in size. The community development department shall have the authority to waive this minimum acreage requirement if all real property owners that abut the proposed private street agree to such waiver.
- (b) Where this chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations and supplemental regulations of chapter 27, in this chapter or elsewhere in this Code shall apply similarly for property abutting a private street. Nothing in this article is intended to authorize any kind of development on a private street that would not be authorized where there was public right-of-way.
- (c) Private streets within any zoning district shall not be used to satisfy the off-street parking requirements of this Code. Private streets within any district shall be assigned names and locations. The names of these streets shall be shown on plans required for the issuance of building and development permits as provided in this chapter and chapters 7 and 27. The geographical information services department shall approve all private street names and addresses, thereby avoiding conflicting names and addresses.
- (d) Lots may front on a public street or private street constructed to the standards found in this chapter.
- (e) Where sewer lines are constructed underneath a private street, the developer is required to grant an easement to the county or city for installation, maintenance and repair of such sewer lines.
- (f) Private streets shall not be eligible for participation in the city's traffic calming program as provided for in chapter 17.
- (g) Private streets shall not be eligible for participation in the city's residential sidewalk district program as provided for in chapter 23.
- (h) Developers and property owners' associations shall ensure access to all private streets by emergency and law enforcement vehicles and shall ensure that private streets are constructed to allow access by all emergency vehicles and law enforcement vehicles.
- (i) The use of private streets may not result in an increase in permitted density above that which would otherwise be permitted by the applicable district regulations. Density calculations shall be made based on a public street system and the preliminary plat that provides for a private street shall be density neutral. Additionally, a utility easement is not to be included in any plat as a part of an individual lot and thus such land that comprises the utility easements cannot be used to calculate the required minimum lot size, or minimum front yard size.
- (j) Private streets shall comply with requirements for public streets found in this chapter and all other applicable sections of this Code. Private streets shall be surfaced with the same type of materials that are used by the city's department of public works for the surfacing and resurfacing of public streets or with materials that are as protective as those used by the city to surface and resurface streets so long as such alternative materials are approved by the director of public works.

(Ord. No. 2014-12-06, § 1(14-189.1), 12-16-2014)

Sec. 14-349. - Approval to create a private street.

- (a) The community development department may authorize a private street when the applicant has submitted all required documentation as set forth herein and where the community development department finds that:
 - (1) The location of the proposed private streets will not adversely impact use of any existing surrounding public streets;
 - (2) The location of the proposed private street will not adversely impact adjacent existing communities or neighborhoods;
 - (3) The applicant has shown that there is the requisite legal mechanism for the maintenance of the proposed private streets; and
 - (4) The applicant has provided written evidence that the proposed private street system is acceptable to the city and county departments or divisions responsible for law enforcement, sanitation, transportation and fire and rescue.
- (b) Street rights-of-way shall be owned by the mandatory homeowners' association as required by section 14-350. Street rights-of-way shall comply with all the requirements set forth in this Code, including, but not limited to, the requirements set forth in this chapter and in chapter 27. An access easement and a utility easement shall entirely overlay the rights-of-way and shall be dedicated to city for public use. All applicable setbacks, lot widths and lot areas shall be measured from the homeowner's association right-of-way.

(Ord. No. 2014-12-06, § 1(14-189.2), 12-16-2014)

Sec. 14-350. - Legal mechanism for maintenance of private streets; resurfacing fund.

(a) *Maintenance of private streets.*

- (1) Each developer that chooses to include private streets within a condominium, as that term is defined by state law, or any other residential, commercial, institutional, and industrial or office development shall organize and establish a property owners' association prior to recording of the final plat. Membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit within the development. The property owners' association shall be organized so that it has clear legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. The declaration of covenants creating the property owners' association shall be recorded with the clerk of the superior court of the county and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the city. The recorded declaration of covenants and articles of association shall specifically require the property owners' association to repair and maintain each private street in the same manner as similar public streets are maintained by the city and such maintenance and repair shall be performed in compliance with all city standards and all applicable provisions of law.
- (2) Prior to any final plat approval, the developer shall submit articles of incorporation, declaration of covenants and bylaws for the property owners' association to the community development department. Those documents must thereafter be reviewed and approved by the city attorney.

- (b) *Maintenance fund.* The declaration of covenants and articles of association shall provide for a street maintenance fund the proceeds of which shall be used solely for the purpose of regular maintenance of the streets, whether for resurfacing or a similar purpose. For the purposes of further providing further assurance that city funds shall not be used for maintenance of private streets, the developer shall submit proof of deposit of 50 percent of the current estimate of resurfacing costs, as determined by community development director or designee, in an interest bearing account on behalf of the property owners' association.
- (c) *Maintenance bond.* At the end of the 12-month maintenance period provided for in section 14-675, a developer must provide a maintenance bond renewable annually to cover the cost of maintenance and repair for any private streets within a subdivision. The bond shall be for an amount equal to 50 percent of the current estimate of resurfacing costs, as determined by the community development director or designee. The developer may avoid securing the maintenance bond set forth in this subsection if the developer submits proof to the community development department that 100 percent of the then-current estimate of resurfacing costs, as determined by the community development director or designee, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association shall specifically require the property owners' association to continuously maintain 100 percent of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.
- (d) *Assessment and liens.* The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in subsection (a) of this section. At least 15 percent of all fees or assessments paid shall be set aside in the maintenance fund. Any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

(Ord. No. 2014-12-06, § 1(14-189.3), 12-16-2014)

Sec. 14-351. - Inspection of private streets within nine months of approval of the final plat; failure to correct deficiencies.

- (a) Within nine months following approval of the final plat, the city's community development director or designee shall inspect the private streets to ensure compliance with all city standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer shall be notified of any deficiencies in writing and such deficiencies shall be corrected within 60 days of the written notice of deficiencies unless the city agrees to extension of that period in writing.
- (b) Failure to correct the complete list of deficiencies shall be a violation of this section and shall subject the developer to prosecution for a code violation in the municipal court of city. Any person found to have violated this section shall be subject to a fine of not less than \$500.00 for each violation. A separate and distinct offense shall be regarded as committed each day on which such person shall continue any such violation.
- (c) The community development director or designee shall deny the issuance of certificates of occupancy until all deficiencies have been corrected.

(Ord. No. 2014-12-06, § 1(14-189.4), 12-16-2014)

Sec. 14-352. - Abandonment of existing public streets.

- (a) Any abandonment of a public street by the city pursuant to this section must comply with the applicable requirements set forth in state law and this Code, including, but not limited to, the requirements set forth in O.C.G.A. §§ 32-7-2(b) and 32-7-4 and as may hereinafter be amended.

- (b) A property owner may petition the governing authority to abandon an existing public street that abuts the owners' property. The petition must include documents that comply with all of the following requirements set forth in this section.
- (c) The petition shall contain evidence that each abutting landowner to the public street seeks to have the street abandoned.
- (d) The petition shall contain evidence that once abandoned pursuant to the requirements of state law, all property owners that abut the street agree that ownership of the street shall be placed in a property owners' association. The petition shall include evidence that 100 percent of all property owners in the property owners' association have agreed that the street at issue may become private and have agreed to maintain and exercise control over the private street as required by this article.
- (e) The petition shall contain evidence that the property owners' association has the financial ability to maintain the street and associated improvements in perpetuity.
- (f) The petition shall include evidence that the declaration of covenants and articles of association or other legal instruments creating the property owners' association provide or have been amended to provide that membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit on the street.
- (g) The petition shall include evidence that the property owners' association shall be organized so that it has absolute legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses.
- (h) The petition shall include evidence that the declaration of covenants creating the property owners' association shall be recorded with the clerk of the superior court of the county and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the city.
- (i) The petition shall include evidence that the declaration of covenants and articles of association shall provide for a maintenance fund, the proceeds of which shall be used solely for the purpose of regular maintenance of the streets, whether for resurfacing or similar purpose. For the purposes of further providing further assurances that city funds shall not be used for maintenance of private streets, the property owners' association shall submit proof of a maintenance fund equal to 50 percent of the current estimate of resurfacing costs, as determined by the community development director or designee, in an interest bearing account on behalf of the property owners' association.
- (j) The petition shall include evidence that the property owners have a maintenance bond renewable annually in an amount equal to 50 percent of the current estimate of resurfacing costs, as determined by the community development director or designee.
- (k) The petition shall include evidence that the property owners' association is empowered to levy assessments against owners on the streets for the payment of expenditures made by the association for maintenance of the private streets and improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses and evidence that any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building, or unit of the owner. At least 15 percent of all fees or assessments paid shall be set aside in the maintenance fund.
- (l) The governing authority shall not consider a petition for abandonment unless it:

- (1) Contains all of the evidence and documents required by this article and has been reviewed by community development department;
- (2) Is supported by an analysis by public works department that shows that the street is no longer used by the public to the extent that it serves no substantial public purpose and that the public at large will benefit from its closure since the public will no longer be responsible for any costs to maintain and repair the street; and
- (3) Is supported by an analysis by the community development department that shows that the abandonment of the street shall not negatively impact adjacent neighboring communities and the public at large.

Deferral of a petition or failure to provide a recommendation by the community development department shall not prevent the governing authority from taking any and all appropriate action with respect to the petition identified in this section.

(Ord. No. 2014-12-06, § 1(14-189.5), 12-16-2014)

Sec. 14-353. - Street classification and right-of-way width.

All streets shall be classified according to the table in this section. Street construction standards shall be no less than as follows, unless otherwise approved by the public works director:

Type of Road	Travel Lanes	Bike Lanes	Paving Width	Planting Strips	Sidewalks	Utility Strips	Property ROW	Underground Utilities	Street Lights	Other
Parkway, 4 lane divided	4 @ 11'	2 @ 4'		2 @ 6'	2 @ 5'	2 @ 15'	120	Y	Y	20' landscaped median
Major arterial	4 @ 11'	2 @ 4'	52'	2 @ 6'	2 @ 5'	2 @ 15'	100	Y	Y	
Minor arterial	2 @ 11'	2 @ 4'	30'	2 @ 6'	2 @ 5'	2 @ 15'	80	Y	Y	
Residential arterial	2 or 4 @ 11'	2 @ 4'	30' or 52'	2 @ 6'	2 @ 5'	2 @ 15'	60' or 80'	Y	Y	
Collector	2 @ 11'	2 @ 4'	30'	2 @ 5'	2 @ 5'	2 @ 15'	70	Y	Y	
Res. pkwy (min. 100 homes)	2 @ 11'		22'	2 @ 5'	2 @ 5'	2 @ 15'	75'	Y	Y	16' landscaped median
Local residential	2 @ 12'	0	24'	2 @ 2'	2 @ 5'	2 @ 14'	55' or 50'	Y	Y	
Local office and institutional	2 @ 12'	0	24'	2 @ 2'	2 @ 5'	2 @ 15'	60'	Y	Y	
Local industrial	2 @ 14'	0		2 @ 5'	1 @ 5'	2 @ 15'	60'	Y	Y	
Alley,	1 @	0		0	0	0	20'	Y	0	2'

private	12'						(private)			shoulder on each side
Alley, public	1 @ 16'	0		0	0	0	20'	Y	Y	

*Shoulder width not included, two foot paved shoulder width required for non-curbed roads (both sides)

Paving Width = travel lanes + bike lanes

Property Right-of-way = paving width + curb & gutter width + utility strip + bike lanes + other (median or shoulder)

(Ord. No. 2014-12-06, § 1(14-190), 12-16-2014; Ord. No. 2018-04-03, § I, 4-24-2018)

Sec. 14-354. - Improvements; right-of-way dedication.

- (a) All proposed new streets shall be designed and built according to one of the standards listed in section 14-353.
- (b) Where a proposed subdivision involving new development or project requiring a land development permit has frontage on an existing public street, right-of-way shall be dedicated along that frontage so as to meet the standards of that street's classification. The right-of-way shall be improved wherever required as further provided in this section. For existing streets on which a proposed subdivision involving new development or project requiring a land development permit has frontage, the applicant shall:
 - (1) Dedicate a minimum of 50 percent of the required right-of-way width as measured from the centerline of the existing street right-of-way;
 - (2) Install all required sidewalks, street trees, streetlights, and place utilities according to the standards in section 14-353; and
 - (3) Provide a minimum of 50 percent of the roadway pavement required in section 14-353 and install it to the right-of-way centerline.
- (c) Land reserved for any road purposes may not be counted in satisfying yard or area requirements on the city zoning ordinance where the land is to be dedicated to the public in fee simple or an easement associated with the road is granted to city.
- (d) Right-of-way dedication and road widening shall extend for the full length of road frontage of the property under development and shall conform the standards in these regulations. Flares at pavement ends may be required to extend beyond property under development.
- (e) The public works director, after considering all related factors, may authorize deviations from this section as follows:
 - (1) Right-of-way dedication may be waived or modified if:
 - a. Existing use of property is not to be substantially changed as a result of proposed development or construction;
 - b. Existing government construction plans for the roadway indicate lesser right-of-way would be required for dedication; or
 - c. The adjoining frontage is developed and the predominate existing right-of-way meets city standards.
 - (2) Road improvements may be waived or modified if:
 - a. Existing use of property not to be substantially changed (i.e., traffic generation and ingress/egress would remain the same);

- b. Governmental construction plans for the road indicate a pavement width less than city standards (only the planned pavement width shall be required);
 - c. No more than five percent of average daily traffic generation would occur between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m. on weekdays;
 - d. The existing road meets current city standards; or
 - e. Widening would create a hazard to traffic, pedestrians, or bicyclists along the thoroughfare.
- (3) The applicant may, with written concurrence of the public works director or designee and the city attorney, provide payment to the city in lieu of road improvements when:
- a. Road improvements by state or local action are scheduled within 24 months;
 - b. Existing utility companies' improvements are situated so as to require their removal or relocation before road improvements should be accomplished;
 - c. Improvements would be economically unfeasible or would cause unreasonable land development hardships because of topography, soils, bridges, grades, etc., and delay of improvements would not adversely impact the city's road system; and
 - d. Payment for road improvements shall be in accordance with a schedule adopted by the city council in January of each year and based on current street construction costs for the required section.

(Ord. No. 2014-12-06, § 1(14-191), 12-16-2014; Ord. No. 2018-04-03, § I, 4-24-2018)

Sec. 14-355. - Half streets.

Half streets are prohibited. The applicant shall be required to pave the full standard width of any existing unpaved public right-of-way or any proposed public street on which the proposed subdivision has frontage and access.

(Ord. No. 2014-12-06, § 1(14-192), 12-16-2014)

Sec. 14-356. - Temporary dead-end streets.

Temporary dead-end streets may be platted, if recommended by the community development director or designee where the proposed subdivision adjoins property not yet subdivided or property that may be redevelopment. A temporary dead end street shall end in a temporary turn-around. The right-of-way of any temporary dead end street shall be carried to the boundary of the properties being subdivided. Street signs shall be posted stating: "No Exit—temporary dead-end street."

(Ord. No. 2014-12-06, § 1(14-193), 12-16-2014)

Sec. 14-357. - Permanent dead-end streets; cul-de-sac required.

- (a) Dead-end streets designed to be so permanently shall be provided with a cul-de-sac at the closed end and shall not exceed 1,200 feet.
- (b) The minimum outside radius of a cul-de-sac on a public street shall be 40 feet, measured to the inside face of the outside curb. Cul-de-sacs may include a landscaped island at the center subject to approval of the director of public works, and the clear width of the paved roadway measured from the outside of the landscaped island to the inside face of the outside curb shall not be less than 24 feet. The radius of the right-of-way for the cul-de-sac shall not be less than 50 feet.

(Ord. No. 2014-12-06, § 1(14-194), 12-16-2014)

Sec. 14-358. - Alleys.

- (a) Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as

the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations and this chapter.

- (b) Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:
- (1) The paved width of an alley shall be not less than 12 feet;
 - (2) Alleys shall be constructed with flush curbs;
 - (3) Buildings shall be set back at least ten feet from the back of curb of an alley.
- (Ord. No. 2014-12-06, § 1(14-195), 12-16-2014)

Sec. 14-359. - Street grades.

Subdivision street grades shall not exceed the following, with due allowance for reasonable vertical curves:

Type	Percent Grade
Major arterial	8
Minor arterial	10
Residential arterial and alley	12
Collector street	12
Local residential	12
Alleys	12

- (1) A 16 percent grade on local residential streets may be approved by the public works director or designee where a sight distance in feet of ten times the speed limit is maintained. An as-built street profile may be required.
- (2) No street grade shall be less than one percent and no one percent grade shall be longer than 300 feet.
- (3) Up to a 12 percent grade on alleys may be allowed, provided the community development director or designee approves any required drainage plan.

(Ord. No. 2014-12-06, § 1(14-196), 12-16-2014)

Sec. 14-360. - Minimum horizontal curve radius.

Subdivision streets with design speeds of 20 miles per hour may not have a minimum centerline horizontal curve radius less than 90 feet. No other subdivision street shall have a horizontal curve radius less than 150 feet. Radius shall be measured from the centerline of the right-of-way.

(Ord. No. 2014-12-06, § 1(14-197), 12-16-2014)

Sec. 14-361. - Minimum sight distance.

All subdivision streets shall have a minimum sight distance of at least 200 feet.

(Ord. No. 2014-12-06, § 1(14-198), 12-16-2014)

Sec. 14-362. - Design of intersections.

Subdivision intersections shall not be designed in such a manner as to create a traffic hazard. A minimum of 150 feet clear sight distance in each direction from the intersection shall be provided.

Where a subdivision street enters an existing major or minor arterial, a minimum of 250 feet sight distance in each direction shall be maintained. If, due to other restrictions, this minimum sight distance cannot be maintained, the applicant shall, at the applicant's expense, provide adequate traffic-control devices or other physical improvements subject to the approval and installation by the city. (Ord. No. 2014-12-06, § 1(14-199), 12-16-2014)

Sec. 14-363. - Access management.

The following standards shall apply to all subdivisions and all projects requiring a land development permit where the primary access is from a state or federal highway or an arterial classified as a major, minor or residential arterial or collector street in the city transportation plan. These standards shall apply unless a more restrictive standard is required by the state department of transportation:

- (1) Commercial or office properties may be required, based on site conditions as determined by the community development director or designee, to provide a cross access drive and pedestrian access to allow circulation between sites. Cross access is not required between nonresidential uses and single-family uses.
- (2) Joint driveways, cross access easements and pedestrian access shall be established wherever feasible along a major or minor arterial or collector street. The building site shall incorporate the following:
 - a. Continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation of at least 1,000 feet of linear frontage along the thoroughfare.
 - b. A design speed of ten mph and a two-way travel aisle width of 24 feet to accommodate automobiles, service vehicles, and loading vehicles.
 - c. Stub-outs and other design features to indicate that abutting properties may be connected to provide cross access via a service drive.
- (3) The community development director or designee may reduce the required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 - a. Joint access driveways and cross access easements are provided in accordance with this section.
 - b. The site plan incorporates a unified vehicular and pedestrian access and circulation system in accordance with this section.
 - c. The property owner shall enter a written agreement with city, recorded with the deed, that pre-existing connections on the site that do not meet the requirements of section 14-363 will be closed and eliminated after construction of each side of the joint use driveway.
- (4) All developments shall have access to a public right-of-way. The number of access points shall be as follows:

Minimum Number of Access Points

Type of Development	Minimum No. of Access Points	Type of Primary Access
Residential, under 75 units	1	Residential arterial or collector street
Residential, 76—150 units	2	Residential arterial or collector street
Residential, 151—300	3	Collector street

Residential over 300 units	4	Collector street
Nonresidential, less than 300 required parking spaces	1	Collector street
Nonresidential, 300—999 required parking spaces	2	Major or minor arterial or collector street
Nonresidential, 1,000 or more required parking spaces	2 or more as determined by the department	Major or minor arterial or collector street

- (5) The separation of access points on a major or minor arterial or collector street shall be determined by the speed limit of the road with the following minimum spacing requirements:

Posted Speed Limit of Road	Minimum Driveway Spacing
Less than 35 mph	125 feet
36 to 45 mph	245 feet
Greater than 45 mph	440 feet

- a. The distance between access points shall be measured from the centerline of the proposed driveway or public street to the centerline of the nearest existing adjacent driveway or public street.
 - b. Driveway spacing at intersections and corners shall provide adequate sight distance, response time, and permit adequate queuing space.
 - c. No driveway, except residential access, shall be allowed within 100 feet of the centerline of an intersecting arterial or collector street.
 - d. No nonresidential access except right in/right out channelized access shall be allowed within 100 feet of the centerline of any other major or minor arterial.
 - e. The requirements of this section are not intended to eliminate all access to a parcel of land that was legally subdivided prior to the enactment of this section.
- (6) Where major or minor arterials or collector streets include medians, directional median openings shall be separated by a minimum of 330 feet and full median openings shall be separated by a minimum of 660 feet.
- (7) All street design and other development activities, including landscaping, shall be arranged on site so as to provide safe and convenient access for emergency vehicles.
- (8) Along major or minor arterials, residential arterials, or collector streets, a deceleration lane, a turn lane, larger or reduced turning radius, traffic islands or other devices or designs, including traffic calming devices and designs, may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location.
- (9) Deceleration lanes are required for subdivision entrances of subdivisions of 20 or more units that provide less sight distance (in feet) than ten times the posted speed limit (in miles per hour). The minimum deceleration lengths shall be as specified below. The director may vary length requirements based upon a consideration of available sight distances.

Deceleration Lanes

Operating Speed	Deceleration Lanes
Subdivision streets	Not required
35 mph	150'+50' taper

40 mph	150'+50' taper
45 mph	150'+50' taper
55 mph	200'+150' taper

Deceleration lanes located within 75 feet of an intersection radius may be extended to the intersection.
(Ord. No. 2014-12-06, § 1(14-200), 12-16-2014)

Sec. 14-364. - Planting strips.

The city arborist shall maintain a list of trees that are appropriate for the planting strips, and no trees other than those on the list shall be placed in the planting strips. The city arborist shall also maintain specifications regarding spacing trees, and the appropriate time for planting. The trees may not count toward the fulfillment of the requirement to plant front yard trees but may fulfill any remaining density tree requirements under the tree protection ordinance, provided the requirements for tree type for planting strips are met.

(Ord. No. 2014-12-06, § 1(14-201), 12-16-2014)

Sec. 14-365. - Access management areas; purpose and intent.

The purpose and intent in enacting these regulations is as follows:

- (1) To promote policies for the uniform improvement of safe and efficient movement of traffic, both vehicular and pedestrian, throughout city;
- (2) To maximize the benefit of transportation investments by maintaining a high level of functionality along major roadways;
- (3) To encourage efficient development plans that enable individuals to fulfill their daily activities through minimal use of single-occupancy vehicles, and through increased use of alternative transportation modes such as public transit, walking, and bicycling;
- (4) To provide for uniform control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections to a roadway throughout city;
- (5) To support the goals stated in the city comprehensive transportation plan, including improved multimodal transportation, increased accessibility, and improved travel safety and efficiency; and
- (6) To provide a transportation system that results in less congestion and increased use of alternative modes of travel.

(Ord. No. 2014-12-06, § 1(14-202), 12-16-2014)

Sec. 14-366. - Scope and applicability of regulations.

These regulations apply to each application for the development, use, alteration, parking, open space, building or modification of any structure where the subject property is, in whole or in part, contained within the boundaries of an access management area. The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the access management area. Access management area regulations are supplemental to the underlying zoning district regulations. No development or building permit shall be issued to any applicant for permits for property or portions of property within an access management area until such time as the application complies with all applicable access management area regulations and underlying zoning district regulations. Where there is a conflict between an access management area regulation and another regulation contained in this Code, the access management area regulation shall govern. Where an

access management area regulation is equally restrictive with other regulations in this Code, the access management area regulation shall govern.

(Ord. No. 2014-12-06, § 1(14-202.1), 12-16-2014)

Sec. 14-367. - Definitions.

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Continuous service drive means a privately owned and maintained continuous drive providing for ingress and egress to a public road.

Lower functional classification means those areas the state department of transportation designates as lower functional classification on the current functional classification map for the city.

Throat length means the distance between the edge of the street and the end of the driveway within a development. The 50-foot throat length will allow three cars to stack up waiting to leave without interfering with the internal circulation of the parking lot.

(Ord. No. 2014-12-06, § 1(14-202.2), 12-16-2014)

Sec. 14-368. - Driveways.

The following standards for driveway access and spacing shall apply to all properties included in an access management area. These standards shall apply unless a more restrictive standard is required by the state department of transportation:

- (1) Where roadways include medians, median openings shall be separated by a minimum of 660 feet.
- (2) Right-turn lanes shall be required at all driveways where the right-turning volume exceeds 300 vehicles per day.
- (3) The following driveway spacing shall be required for all driveways along the corridor between median openings or intersections with public roadways (measured center line to center line):
 - a. The minimum distance of an upstream driveway from a median opening or intersection with a public roadway shall be 300 feet in addition to the storage length required for the driveway.
 - b. The minimum distance of a downstream driveway from a median opening or intersection with a public roadway shall be 300 feet.
- (4) All developments shall have access to a public right-of-way. Access to a public right-of-way may be obtained via an adjacent public roadway with a lower functional classification. The maximum number of driveways per parcel depends upon the length of frontage along the corridor:
 - a. For parcels with less than 600 feet of frontage, there shall be a maximum of one driveway allowed per parcel.
 - b. For parcels with at least 600 feet of frontage, there shall be a maximum of two driveways per parcel.
 - c. For parcels which have frontage along an adjacent public roadway with a lower functional classification, the maximum number of driveways will be unchanged, but the first driveway shall be located on the adjacent public roadway.
- (5) All driveways serving a single parcel must be at least 100 feet (measured from the centerline) from the property line that is perpendicular to the property frontage, and all deceleration lanes must be contained entirely within the property frontage. For parcels with insufficient frontage to accommodate these requirements, exceptions will be allowed, but driveway locations must be approved by the city manager or his designee. Access to a public right-of-way may be obtained through a shared driveway, which provides access to more than one

parcel. Shared driveways are exempt from the requirement regarding distance of the driveway from the property line.

(6) There shall be a minimum driveway throat length of 50 feet.

(Ord. No. 2014-12-06, § 1(14-202.3), 12-16-2014)

Sec. 14-369. - Interparcel access.

To the maximum extent possible, sidewalks and parking lots serving adjacent lots shall be interconnected to provide continuous driveway connections and pedestrian connections between adjoining lots and streets, except that this requirement shall not apply to lots zoned for single family or duplex residential units. Where necessary, the city manager or his designee may require access easements be provided to ensure continuous access and egress routes connecting commercial, office, and multifamily lots. Stub-outs shall be provided to indicate that abutting properties may be connected to provide cross-access via a continuous service drive.

(Ord. No. 2014-12-06, § 1(14-202.4), 12-16-2014)

Sec. 14-370. - Pedestrian and bicycle access.

Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be constructed along adjacent streets and those entering adjoining properties. Safe, convenient, and handicap-accessible pedestrian ways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development.

(Ord. No. 2014-12-06, § 1(14-202.5), 12-16-2014)

Secs. 14-371—14-398. - Reserved.

Subdivision III. - Easements

Sec. 14-399. - Scope.

The provisions of this division apply to easements for or in subdivisions.

(Ord. No. 2014-12-06, § 1(14-216), 12-16-2014)

Sec. 14-400. - Permission for dedication required.

The applicant must obtain permission from the community development director or designee for the dedication of utility easements prior to the submission of the dedication.

(Ord. No. 2014-12-06, § 1(14-217), 12-16-2014)

Sec. 14-401. - Drainage easements; off-site.

Where drainage system improvements are required on private land outside the subdivision, appropriate drainage rights must be secured by the applicant and indicated on the plat.

(Ord. No. 2014-12-06, § 1(14-219), 12-16-2014)

Sec. 14-402. - Pedestrian and bicycle easements and paths.

Pedestrian and bicycle easements and paths shall be required in subdivision or projects requiring a land development permit to provide circulation or access to schools, parks, libraries, shopping centers, transportation centers and other community facilities. Such easements shall have a paving width of five feet. Such paths shall be constructed according to the specifications set forth in the city standards for construction and design drawings.

(Ord. No. 2014-12-06, § 1(14-220), 12-16-2014)

Secs. 14-403—14-432. - Reserved.

Subdivision IV. - Blocks

Sec. 14-433. - Determination of lengths, widths and shapes.

The lengths, widths and shapes of blocks in subdivisions shall be determined with due regard to:

- (1) Provision of building sites suitable to the special needs of the type of use contemplated or for the conservation of open space or existing historic features;
- (2) Zoning requirements as to lot sizes and dimensions;
- (3) Needs for convenient access by pedestrians and bicyclists to public transit, nearby schools, or commercial districts, vehicular circulation at safe speeds and adequate access for emergency vehicles; and
- (4) Limitations and opportunities of topography to minimize land disturbance and erosion.

(Ord. No. 2014-12-06, § 1(14-236), 12-16-2014)

Sec. 14-434. - Desirable maximum and minimum lengths.

The dimensions of blocks shall be designed to accommodate and promote vehicular circulation at safe speeds. The desirable maximum block length in a subdivision is 1,200 feet and the desirable minimum length is 300 feet.

(Ord. No. 2014-12-06, § 1(14-237), 12-16-2014)

Sec. 14-435. - Mid-block easements and pedestrian paths.

In blocks of 800 feet or more, the community development director or designee may require the reservation of a ten-foot easement and the paving of a five-foot-wide path through the block to accommodate utilities, drainage facilities, or pedestrian traffic. Such paths shall be constructed according to the specifications set forth in the city standards of construction and design drawings.

(Ord. No. 2014-12-06, § 1(14-238), 12-16-2014)

Secs. 14-436—14-453. - Reserved.

Subdivision V. - Lots

Sec. 14-454. - Dimension, shape and orientation; building, setback and yard lines.

The lot size, width, depth, shape and orientation and the minimum building, setback, side yard, and rear yard lines in subdivisions shall be in accordance with requirements of chapter 27, zoning.

(Ord. No. 2014-12-06, § 1(14-256), 12-16-2014)

Sec. 14-455. - Corner lots.

Corner lots for residential use in a subdivision shall have an extra width of not less than 15 feet along one frontage more than required for interior lots by the zoning ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to one street. The frontage to which said extra width is added shall be subject to the approval of the director of community development or his designee.

(Ord. No. 2014-12-06, § 1(14-257), 12-16-2014; Ord. No. 2017-08-07, § I, 8-22-2017)

Sec. 14-456. - Frontage.

Each subdivision lot shall front upon either a public or private street.

(Ord. No. 2014-12-06, § 1(14-258), 12-16-2014)

Sec. 14-457. - Through lots and reverse frontage lots prohibited.

Through lots and reverse frontage lots shall be prohibited in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from major arterials or to overcome-specific disadvantages of topography and orientation, the lots fronting such features may be platted in greater depth so that dwellings may be set back an appropriate distance from the major arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from a public alley shall not constitute a prohibited through lot. A landscape reservation of at least ten feet in width, and across which there shall be no right of vehicular access, may be required-along the lot lines of lots abutting any disadvantageous feature or land use where access should be restricted in the public interest.

(Ord. No. 2014-12-06, § 1(14-259), 12-16-2014)

Sec. 14-458. - Side lot lines.

Side lot lines in subdivisions shall be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.

(Ord. No. 2014-12-06, § 1(14-260), 12-16-2014)

Secs. 14-459—14-484. - Reserved.

Subdivision VI. - Reservation of Open Spaces

Sec. 14-485. - Open space required; purposes.

(a) All residential subdivisions under five acres or consisting of 36 or less dwelling units may, and all residential subdivisions greater than five acres or consisting of more than 36 dwelling units shall be required to provide open space, in order to achieve the following public purposes:

- (1) Conserve open land, including those areas containing historic or cultural resources, or sensitive natural features and wildlife habitats;
- (2) Reduce erosion and sedimentation by minimizing land disturbance; and
- (3) Preserve and develop an adequate tree cover.

(b) Open space shall be a minimum of 20 percent of the land in all new subdivision developments.

(c) Open space required by this section may be used in a variety of ways, including natural areas for wildlife and ecological functions, parks, gardens, landscaped medians, squares, village greens, courtyards, recreational space, or recreational facilities, provided the use is consistent with the requirements of this subdivision.

(Ord. No. 2014-12-06, § 1(14-275), 12-16-2014)

Sec. 14-486. - Restrictions on open space.

No more than 20 percent of the open space area may be covered with an impervious surface. Impervious surfaces may include paved trails, bike paths or multi-use paths, buildings, plazas, swimming pools, or athletic courts. Impervious surfaces in open space may not include sidewalks along public rights of way or parking lots, streets, or other areas for motorized vehicular use.

(Ord. No. 2014-12-06, § 1(14-276), 12-16-2014)

Sec. 14-487. - Dedication of parks, open space, recreation areas and conservation easements.

Parks, open space, multi-use trails, recreation areas and conservation easements may be offered for dedication to the city by the property owner.

(Ord. No. 2014-12-06, § 1(14-277), 12-16-2014)

Secs. 14-488—14-512. - Reserved.

Subdivision VII. - Sites for Civic Uses

Sec. 14-513. - Reservation of sites.

A developer may reserve and offer property within a subdivision as a site for a civic use, including, but not limited to, public schools, fire stations, police stations, or recreation centers. The developer shall allow a minimum period of one year from the date of submittal of the preliminary plat during which time the proper authorities may authorize acquisition of the property for its intended civic purposes. If the reserved site has not been authorized for acquisition by the proper authorities within one year, the reservation shall terminate unless extended by the developer. If not extended, development of the formerly reserved site must follow the standard plat approval process. An amended final plat for the entire subdivision shall then be processed in the required manner when submitted by the developer.

(Ord. No. 2014-12-06, § 1(14-286), 12-16-2014)

Secs. 14-514—14-534. - Reserved.

Subdivision VIII. - Cluster Mailboxes

Sec. 14-535. - Compliance with installation and ~~maitenance~~maintenance.

- (a) All cluster mailboxes, whether installed on public or private streets, shall comply with the United States Postal Service (USPS) standards for the construction of mailboxes. A statement indicating the type of mail delivery available by the USPS (e.g., delivery to an individual mailbox or central delivery via cluster mailbox stations) shall be indicated on an approved subdivision plat or development permit.
- (b) A letter, e-mail, or other correspondence from the USPS indicating the type of mail delivery that will be available to the proposed development shall be provided. The correspondence should also indicate, either by description or drawing, that the proposed location for the proposed cluster mailbox stations, if applicable, is acceptable to the postal service.
- (c) Installation of the mailbox stations, as well as any associated shelters, lighting, parking, and other related amenities shall be the responsibility of the developer.
- (d) Maintenance of the mailbox stations, as well as any associated shelters, lighting, parking, and other related amenities shall be the responsibility of the homeowners. The establishment of a homeowners' association is strongly encouraged in developments where individual mail delivery will be unavailable.
- (e) Cluster box stations and associated improvements that provide for access to the cluster box stations shall be located within a common area or an access easement and are subject to approval of the public works department prior to installation. The proposed location of cluster box stations and associated improvements that provide for access shall be shown on development plans and the installed location shall be shown on an approved plat when permitting or platting requirements dictate permitting of development plans or city approval of a plat.
- (f) For individual, non-cluster mailboxes, refer to section 23-7.

(Ord. No. 2015-05-01(A), § 1(14-451), 5-26-2015)

Sec. 14-536. - Design standards.

- (a) Cluster mailbox stations shall be prohibited within the public right-of-way.
 - (b) Cluster mailbox stations, and any associated structures, shall not adversely impact sight distance to any driveway or road intersection, as determined by the public works department. Whenever feasible, the mailbox stations should be located within an amenity center, if one is proposed for the development.
 - (c) Cluster mailbox stations shall be located in areas that will best allow for vehicle stacking or parking without creating pedestrian or vehicle safety issues as determined by the public works department.
 - (d) A paved area with adequate ingress/egress, designed to meet the requirements of the public works department, shall be provided to allow vehicles to pull off the roadway safely while retrieving mail.
 - (e) All access to cluster mailbox stations shall comply with current Americans with Disabilities Act (ADA) and Georgia Accessibility Code requirements. Any sidewalks required by other provisions of this code shall be incorporated into the mailbox station area.
 - (f) The mailbox stations shall be installed according to the manufacturer's standards, subject to the approval of the department of community development.
 - (g) The mailbox stations and shelter, if any, shall be exempt from normal setback requirements; however, shelters or other structures must be submitted to the ~~department~~department of community development for review and must meet all applicable building codes.
- (Ord. No. 2015-05-01(A), § 1(14-452), 5-26-2015)

Secs. 14-537—14-565. - Reserved.

DIVISION 4. - REQUIRED IMPROVEMENTS

Subdivision I. - In General

Sec. 14-566. - Scope.

This division applies to required improvements for or in subdivisions.

(Ord. No. 2014-12-06, § 1(14-296), 12-16-2014)

Sec. 14-567. - Location of required utilities in public rights-of-way.

All required utilities within city rights of way shall be located as shown in city standards of drawings and specifications maintained by the community development department and as otherwise provided herein.

(Ord. No. 2014-12-06, § 1(14-297), 12-16-2014)

Secs. 14-568—14-597. - Reserved.

Subdivision II. - Water

Sec. 14-598. - Water system and fire hydrants.

Water mains and appurtenances shall be connected to a public water supply in accordance with the requirements of the authority having jurisdiction to provide water service within the city, herein referred to as the water authority.

(Ord. No. 2014-12-06, § 1(14-313), 12-16-2014)

Sec. 14-599. - Materials, location of mains.

All materials for water mains in subdivisions will conform to specifications of the water authority.

(Ord. No. 2014-12-06, § 1(14-314), 12-16-2014)

Sec. 14-600. - Fire hydrants.

Fire hydrants will be installed in subdivisions so that all residential property will meet the requirements of the authority having jurisdiction to provide fire and rescue service within the city. Additional fire hydrant locations may be required by the city fire marshal.

(Ord. No. 2014-12-06, § 1(14-315), 12-16-2014)

Sec. 14-601. - Submission of water service data for location of water system.

The applicant shall furnish data on the final subdivision plat in digitized form, or as required, to the community development director or designee.

(Ord. No. 2014-12-06, § 1(14-319), 12-16-2014)

Sec. 14-602. - Material storage and responsibility.

It shall be the contractor's responsibility to acquire, properly handle, store and protect all materials. The city shall not be held responsible for loss or damage to any materials. No damaged material shall be utilized in the water line construction.

(Ord. No. 2014-12-06, § 1(14-323), 12-16-2014)

Sec. 14-603. - Excavation.

- (a) *Depth.* Trench excavation and cover over water lines shall be in accordance with the requirements of the water authority.
- (b) *Sheeting.* The contractor shall install sheeting and bracing where necessary to prevent caving, to protect new work and to protect adjacent utility lines, and public and private property.
- (c) *Blasting.* Blasting shall be permitted only with the written approval of the city for each location. The contractor shall provide adequate protection, such as mats, and permit only qualified, experienced personnel to supervise blasting. Approval by the city in no way relieves the contractor from any liability for any damages whatsoever resulting from the blasting operations.

(Ord. No. 2014-12-06, § 1(14-324), 12-16-2014)

Sec. 14-604. - Pipe laying.

Pipe laying shall conform to the specifications prepared and approved by the water authority.

(Ord. No. 2014-12-06, § 1(14-325), 12-16-2014)

Sec. 14-605. - Backfilling.

- (a) All backfilling in subdivisions shall be done with material free from roots, stumps and other foreign material. No rock will be permitted within a distance of six inches from the pipe or ground surface. Rock larger than 12 inches in greatest dimension will not be allowed in any part of the trench. All rock larger than 12 inches shall be disposed of by the contractor.
- (b) The placing and compaction of all backfill material shall be as follows:
 - (1) Backfill from bottom of trench to one foot above the top of the pipe shall be compacted in layers not exceeding six inches, after compaction. Backfill along the sides and to the top of the pipe shall be hand tamped with acceptable hand tamps or mechanically operated hand-tampers, vibrators, etc.
 - (2) From a point one foot above the top of the pipe to the surface of the trench, backfill shall be placed and compacted in layers not exceeding 12 inches in thickness after compaction. The method of compaction in this section of the trench may be by any reasonable method that will give required compaction. After compaction, the dry weight per cubic foot of any six-inch

depth of backfill shall be at least 95 percent of the maximum dry weight per cubic foot, as determined by the American Association of State Highway Official Method T-99.

- (3) The contractor shall restore to the original condition as at the start of the job, all shrubbery, grass, sod, fences, etc., disturbed during the contractor's operations.

(Ord. No. 2014-12-06, § 1(14-326), 12-16-2014)

Sec. 14-606. - Pavement replacement.

Cuts in existing street pavement and driveways will be patched by the applicant/owner. The applicant/owner shall maintain the cuts in good condition until a permanent patch is made. When necessary to abate dust, mud or potholing, the contractor shall furnish and install crushed rock or cold patch asphaltic concrete to the surface of the trench. Appropriate utility permits must be obtained from the public works director prior to work being initiated.

(Ord. No. 2014-12-06, § 1(14-327), 12-16-2014)

Sec. 14-607. - Barricades and lights.

The contractor shall furnish and place sufficient barricades and lights to adequately protect the work on subdivision water improvements, and to protect all vehicular and pedestrian traffic. No street shall be completely blocked without the permission of the public works department.

(Ord. No. 2014-12-06, § 1(14-328), 12-16-2014)

Sec. 14-608. - Testing.

All subdivision mains, including fire hydrants and service laterals, shall be tested in accordance with the requirements of the water authority.

(Ord. No. 2014-12-06, § 1(14-329), 12-16-2014)

Sec. 14-609. - Sterilization of mains.

The contractor will furnish all chemicals, feeding equipment and manpower for the sterilization of water mains. The contractor is responsible for the disposal of dose water in accordance with environmental protection division regulations.

(Ord. No. 2014-12-06, § 1(14-330), 12-16-2014)

Sec. 14-610. - Cleanup.

A thorough cleanup shall be made before final acceptance of subdivision water improvements. All excess rock shall be removed; private and public property shall be restored to original condition, and all excess water line materials removed from the job site.

(Ord. No. 2014-12-06, § 1(14-331), 12-16-2014)

Sec. 14-611. - Service lateral locations.

The contractor shall submit an as-built drawing showing the location, lot number and street address for each service lateral installed in a subdivision.

(Ord. No. 2014-12-06, § 1(14-332), 12-16-2014)

Sec. 14-612. - Maintenance.

- (a) The owner/applicant shall maintain all water mains, appurtenances, trenches and other disturbed surfaces.
- (b) The contractor shall be responsible for repairs to any leaking pipe, fittings, etc. Should any trench settle, the contractor shall promptly furnish and place fill to original grade. Should any leak or

trench settlement occur under any pavement, the contractor will be held responsible for the cost of replacing pavement.

(Ord. No. 2014-12-06, § 1(14-333), 12-16-2014)

Secs. 14-613—14-642. - Reserved.

Subdivision III. - Sewers

Sec. 14-643. - Where laid; exceptions.

- (a) Sanitary sewers shall be laid in all streets, service connections installed to property lines, and connections made to trunk line sewers in all subdivisions including subdivisions with private disposal systems.
- (b) In all developments with private disposal systems, lines shall be laid and temporarily plugged or capped at the points of service connections to the proposed trunk sewer line and individual lot lines in accordance with city requirements and specifications.
- (c) Corresponding service connections shall be installed and temporarily plugged or capped from each principal structure in such a manner that a proper service connection can be made when permanent sewer service is available. This subsection may be waived by the community development director or designee based upon service feasibility to the principal structure as determined by the elevation of the structure with reference to the elevation of the proposed sewer line.
- (d) The requirements of this section may be waived by the city council. Applications for this waiver shall be submitted to the council through the community development director, who shall schedule the request for a public meeting before the city council. The waiver may be granted by the council if it finds that the property for which a waiver is sought is in accordance with applicable provisions of this Code and the county board of health regulations concerning the minimum lot size for private disposal systems, and if the property is located in any of the following areas:
 - (1) An area of the city where, due to topographic or soil conditions, public sewer service is not feasible.
 - (2) An area of the city where the installation of sewer service is not scheduled under the approved capital improvements program of the city.
 - (3) An area of the city where the installation of sewer service is not planned to be accomplished within a six-year period.

(Ord. No. 2014-12-06, § 1(14-351), 12-16-2014)

Sec. 14-644. - Design.

Design of the proposed sewer system within a development shall conform to the specifications of the authority having jurisdiction to provide sewer service within the city.

(Ord. No. 2014-12-06, § 1(14-352), 12-16-2014)

Sec. 14-645. - Filing of plan.

Filing of plans shall conform to the specifications of the authority having jurisdiction to provide sewer service within the city at the time a development permit application is received by the community development department. The lowest minimum finished floor elevation shall be noted for each lot.

(Ord. No. 2014-12-06, § 1(14-353), 12-16-2014)

Sec. 14-646. - Materials.

Materials shall conform to the specifications of the authority having jurisdiction to provide sewer service within the city at the time a development permit application is received by the community development department.

(Ord. No. 2014-12-06, § 1(14-354), 12-16-2014)

Sec. 14-647. - Construction.

Construction shall conform to the specifications of the authority having jurisdiction to provide sewer service within the city at the time a development permit application is received by the community development department.

(Ord. No. 2014-12-06, § 1(14-355), 12-16-2014)

Sec. 14-648. - Maintenance.

- (a) The owner/applicant shall maintain all sewer lines, appurtenances, trenches and other disturbed surfaces for a period of 12 months after approval and acceptance by the authority having jurisdiction to provide sewer service within the city, or as otherwise required by the authority.
- (b) The owner/applicant shall be responsible for repairs to sewer system. Should any trenches settle, the owner/applicant shall promptly furnish and place fill to original grade. Should any leaks or trench settlement occur under any pavement, the contractor will be held responsible for the cost of replacing pavement.

(Ord. No. 2014-12-06, § 1(14-359), 12-16-2014)

Secs. 14-649—14-669. - Reserved.

Subdivision IV. - Streets

Sec. 14-670. - Standards.

- (a) *Application.* The provisions of this subdivision apply to streets in subdivisions, public streets in the city, and in other projects requiring a development, encroachment, land disturbance, or building permit from the city.
- (b) *General improvements.* Street improvements shall be provided in accordance with the specifications in this part and the standard plans and specifications available from the city. The term "state transportation department specifications" shall refer to the state department of transportation specifications in effect at the time the work is placed under contract. The references made to these specifications shall control the materials and equipment as well as the construction method of every class of work so applicable unless otherwise noted.
- (c) *Grading.* The construction limits shall be cleared of all trees, stumps, brush and rubbish before grading operations are begun. No trees, stumps, brush or rubbish shall be placed in fill sections within the construction limits. Such debris shall be disposed of in a manner satisfactory to the community development department. Fill sections shall be placed in six-inch layers with each layer thoroughly compacted with a sheep foot roller or by other approved methods before the next layer is placed, compaction to be not less than 95 percent as determined by AASHTO, section T-99. Where unsatisfactory material is encountered (namely any material that will not compact properly, including solid rock) an additional 12 inches shall be excavated below the subgrade elevation and backfilled with a select material. Where unstable material is used in fills, the fill shall be left 12 inches below the subgrade elevation. This 12-inch fill section shall be filled with select material. Streets shall be graded to width of not less than 42 feet in the center of the right-of-way to provide eight-foot shoulders in accordance with city's standard plan.

- (d) *Curbing.* Curbing shall be required on all streets and shall be furnished and installed by the applicant unless grassed swales are used for water quality control and approved by the public works department. Curb requirements are applicable to every permit for new development. The minimum classes and types of curbing permitted will be as follows:
- (1) Granite curbing, class D or better. Where it currently exists:
 - a. Granite curb is required to be repaired and replaced.
 - b. Granite curb is required to be raised to a six inch reveal, as needed, pursuant to the standard detail used by the city.
 - c. The standard detail and/or notes reflecting the same must be included on the plans associated with permit applications.
 - (2) Other as approved by the public works director. All curbing shall be placed in firm well-compacted subgrade, and curbing displaced prior to acceptance for maintenance by the city shall be reset or replaced. Specifications for the granite curbing and concrete are available from the city public works department.
- (e) *Base and paving.* All roadways shall be paved according to the specifications prepared and approved by the public works director in effect at the time a development permit application is received by the community development department.
- (f) *As-built drawings.* As-built drawings for all new streets shall be submitted to the community development department depicting a street profile based on the centerline and 50 foot stations.
- (Ord. No. 2015-01-04, § 1(14-376), 1-13-2015; Ord. No. 2018-03-04, § I, 3-27-2017)

Sec. 14-671. - Street signs.

- (a) The city's standard steel post with horizontal reflectorized street nameplates with four-inch letters shall be furnished and set by the city at all subdivision street intersections.
- (b) Street name signs shall have four-inch black letters on reflectorized silver background with black border. Nameplates shall be mounted parallel or nearly parallel to the street. The names shall be marked and visible from both sides. Signposts shall be ten-foot poles with at least three feet well-embedded in the ground.
- (c) The applicant shall pay to the city for each street name sign a fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.
- (d) To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.
 - (1) For subdivisions recorded under a performance bond, the street marker will not be installed until the paving has been completed.
 - (2) For subdivisions recorded under a maintenance bond, the public works department will be furnished a plat and a memo requesting that street markers be installed at the time of recording.

(Ord. No. 2014-12-06, § 1(14-377), 12-16-2014)

Sec. 14-672. - Road hazards prohibited.

Subdivision signs, planter boxes, and other similar permanent structures shall not be located on street rights-of-way and shall not be constructed in a manner which, in the opinion of the city, obstructs driveway sight distance or creates a traffic hazard; detailed plans for these structures shall be submitted to community development department.

(Ord. No. 2014-12-06, § 1(14-378), 12-16-2014)

Sec. 14-673. - Surface drainage specifications.

- (a) The size, length and location of all surface drainage pipe or structures shall be shown on the final subdivision plats and shall be subject to the approval of the public works department. All storm drain pipes or culverts carrying stormwater from the street and adjacent property between or through lots shall be extended to at least 30 feet behind the rear of the house. Stormwater must be released into a channel without causing scouring, erosion or resulting sedimentation to the receiving channel. When necessary, the outlet channel shall include structural and vegetative measures to ensure nonerosion velocities. This requirement for pipe extension shall only apply to the discharge ends of piped systems.
 - (1) An exception to extending pipes 30 feet behind the rear of the house may be made for pipes 54 inches and larger where the house site is proposed to be more than 30 feet from the center of the drainageway.
 - (2) An exception to extending pipes 30 feet behind the rear of the house may be granted by the city when soil conditions prohibit erosion.
 - (3) An exception to extending pipes 30 feet behind the rear of the house may be granted by the city where lots are at least one acre in size, open channels are provided, and neither ponding nor erosion will result.
 - (b) Installation, backfilling and compaction shall be in accordance with state transportation department specifications, sections 106 and 520. All pipes shall have a minimum cover of one foot and headwalls or inlet basins constructed at the end of each pipe.
 - (c) The design of drainage structures shall be based on recognized hydrological formulas as outlined in the approved city stormwater management manual.
- (Ord. No. 2014-12-06, § 1(14-379), 12-16-2014)

Sec. 14-674. - Plans, profiles to be approved.

Four copies of the complete plans and profiles for subdivision street improvements shall be submitted for review and recommendation of approval or denial by the public works department of subdivision streets prior to approval of the final plat.

(Ord. No. 2014-12-06, § 1(14-380), 12-16-2014)

Sec. 14-675. - Bonds or escrow required.

- (a) If, at the time the final plat is submitted for approval, the construction of the street improvements has not been accomplished, then the final plat shall be disapproved. No performance bonds shall be allowed or authorized except the city manager shall require a performance bond to be filed with the city to ensure that all final road improvements required by this Code are made by the owner or applicant. The city shall accept no road until such time as all road improvements required by the city are made.
- (b) After the work has been completed according to the city specifications and duly inspected by the city, then a maintenance bond shall be required equal to ten percent of the estimated construction cost. The proposed maintenance bond shall be reviewed and approved as to form by the city attorney prior to acceptance by the city. The maintenance bond shall cover the street improvements, drainage system. Funds may be placed in escrow with the city in lieu of maintenance bonds.
- (c) The applicant shall be required to sign a maintenance agreement with the city, by which the applicant shall agree to maintain the streets, drainage, water quality BMPs, water and sewer systems, and rights-of-way for a period of 12 months. During the applicant maintenance period, the city shall make inspections and instruct the applicant by letter as to what correction must be made.
- (d) In case of emergency repairs, which must be made immediately, or required corrections, which are not made within 30 days of notice, the city shall have the authority to make these corrections and

recover costs from the applicant. In cases where funds are being held in escrow by the city, the cost of making these corrections shall be deducted from these funds, and the applicant charged with any costs above the amount of escrow funds.

- (e) At the end of the 12-month applicant maintenance period, the city shall make a final inspection and notify the applicant and the bonding company of any corrections to be made. If the work is acceptable, the community development department shall recommend to the city attorney that all remaining escrow funds be released.
- (f) Provided, however, in the discretion of the city manager based upon:
 - (1) Weather conditions;
 - (2) Labor market;
 - (3) Material market; or
 - (4) Circumstances beyond the control of the applicant or the city unforeseen by either party;the maintenance period may be extended for a definite period of time sufficient to make the necessary corrections by an agreement in writing executed by the city, the applicant and his surety; provided further that the applicant shall be responsible for any damages done to work already completed by him to the time of the extension agreement, whether or not the city had accepted it.
- (g) Maintenance bonds and acceptance by the city of any dedicated improvements shall be as one package upon completion of all improvements, even though the final plat may have been approved prior to completion.

(Ord. No. 2014-12-06, § 1(14-381), 12-16-2014)

Sec. 14-676. - Standard plans and specifications available.

Standard city plans and specifications referred to in this part are on file and may be obtained from the community development department. The plans are cross sections and construction drawings for a graded street, paved street, driveway section for curbed streets, brick catch basin, barricade for dead-end streets, 24-inch concrete curb and gutter section and standard street marker.

(Ord. No. 2014-12-06, § 1(14-382), 12-16-2014)

Sec. 14-677. - Sidewalks and bicycle lanes.

- (a) Sidewalks shall be required on all sides of street frontage on all new and improved local residential streets in all subdivisions and along the street frontage of all new and improved developments and as set forth in section 14-353 or Future Sidewalk/Trail/Path map adopted by the city council. Where sidewalks are determined to be required, if there is existing noncompliant sidewalk, the existing sidewalk shall be replaced as necessary. These noncompliant conditions include sidewalk/trail widths and longitudinal and cross-sectional slopes to meet ADA standards. At a minimum, however, continuous sidewalks shall be required on at least one side of all new and improved local residential streets on all new and improved sites. The official sidewalk map shall be located in the office of the public works departments and city website. No other variances or exceptions are allowed.
- (b) Sidewalks and trails shall be shown on drawings attached to all development and building permits as set forth in section 14-353 and Future Sidewalk/Trail/Path map adopted by council. No development or building permits will be approved unless sidewalks are shown on the plans.
- (c) If sidewalk is not shown on the Council adopted map or required as set forth in section 14-353, developers and builders shall contribute to the sidewalk fund in-lieu of sidewalk construction in an amount equal to the length of the property frontage. For corner lots, payment in lieu shall be based on the length of the front of the lot as defined by chapter 27. The future sidewalk location shall be graded in such a manner that city should be able to construct the sidewalk without acquiring additional easements and minimal grading.

- (d) Payment in-lieu of sidewalk construction shall be in accordance with a schedule recommended by the public works department and adopted by the city council in January of each year and based on city sidewalk construction cost during the previous calendar year.
- (e) The community development department may require that sidewalks required pursuant to subsection (a) of this section be continued to the nearest major or minor arterial or collector street.
- (f) A grassed, planted or landscaped strip, as set forth in section 14-353, shall separate all sidewalks from adjacent curbs, bridges excepted. The public works director or designee may approve a variable sidewalk location and landscape strip width based on site conditions and future road expansions. Where sidewalks currently exist, new sidewalk construction or re-construction shall be continuous with existing sidewalks.
- (g) Sidewalks shall be concrete and a minimum of five feet wide and four inches thick. In nonresidential districts, where the public works director or designee may approve sidewalks to be located immediately behind the curb, such sidewalks shall be six feet in width. Concrete shall be Class B, as defined by the state department of transportation, and have a minimum strength of 2,500 psi at 28 days. Disturbed areas along sidewalks shall be backfilled, stabilized, and grassed.
- (h) Sidewalks shall be installed at the same time as the building construction, unless an alternative method is approved by the community development department. All sidewalks shall be shown on the final plat and recorded prior to obtaining building permits. Sidewalks shall be completed prior to the issuance of certificate of occupancy for property on which the sidewalk fronts.
- (i) Sidewalks shall not be cut, removed or closed temporarily without a permit from the public works department. Such permit shall not be issued unless safe, adequate, and convenient provision is made for pedestrian travel through the area that is disrupted. Damage to sidewalks caused during construction or development activity shall be repaired at no cost to the city within 30 days or prior to issuance of a certificate of occupancy, whichever is earlier.
- (j) All sidewalk construction and repairs shall conform to federal Americans with Disabilities Act (ADA) standards and provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps shall be constructed pursuant to standards approved by the public works department.
- (k) No person shall construct a sidewalk on any street in the city without first having obtained a permit to do so from the public works department. Any person constructing a sidewalk on a street, without first obtaining a permit, shall be in violation of this Code, and the public works department shall be authorized to condemn the sidewalk and have it removed and replaced at no cost to the city.
- (l) Bicycle lanes shall be required and constructed pursuant to the City Bicycle, Pedestrian, and Trail Plan and/or other planning documents and as follows:
 - (1) Bicycle lanes, where required, shall be placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on-street parking is permitted, the bicycle lane shall be located between the parking lane and the outer lane of moving vehicles. Bicycle pavement widths shall be in addition to the minimum pavement width required for the road.
 - (2) Bicycle lanes shall be delineated with signs and striping consistent with the latest edition of the manual for uniform traffic control devices, and approved by the public works director.
 - (3) Bikeways and bicycle lanes shall be constructed according to the most recent specifications set forth in American Association of State Highway and Transportation Officials (AASHTO) guidelines.
 - (4) The design, striping and sign system for bicycle lanes shall be coordinated with that of the vehicular road system to provide a safe and continuous route for bicycles. Deceleration lanes shall be striped so that bicycles can safely remain in a lane marked between the deceleration lane and the through traffic lane.

(m) No wall, fence, sign or other structure shall obstruct passage along a sidewalk or bicycle lane. (Ord. No. 2014-12-06, § 1(14-383), 12-16-2014; Ord. No. 2017-07-04, § I, 7-25-2017; Ord. No. 2018-04-03, § I, 4-24-2018; Ord. No. 2018-06-01, § I, 6-12-2018)

Sec. 14-678. - Parking on public right-of-way.

- (a) For residential projects constructed under the provisions of the zoning ordinance as single-family attached residential projects, wherein title to the single-family unit is held by fee simple ownership, the city shall assume maintenance responsibility one year after the release of the subdivision bonds for parking constructed on public rights-of-way, in accordance with minimum city standards. A special parking maintenance district, as authorized by Ga. Const. art. IX, § II, ¶ VI, comprised of all property within such single-family attached residential subdivision, is established for the maintenance of such parking constructed on the public right-of-way at the time the subdivision plat is finally recorded, provided such plat is so noted as required by subsection (b) of this section.
- (b) Final subdivision plats for single-family attached residential projects shall have the following notation when a special district is to be established for city maintenance of parking within the public right-of-way:
All single-family residential lots on this plat are included in a special taxing district for funding the maintenance of parking provided in the development.
- (c) Pursuant to the creation of special parking districts by the city, as authorized by Ga. Const. art. IX, § II, ¶ VI, revenue to fund city parking maintenance will be obtained by an ad valorem tax levied on all properties within such parking district. Such ad valorem millage will be set annually by the city council when other ad valorem millage rates are set. No assessment will be made in a special parking district in the calendar year in which it is established.
(Ord. No. 2014-12-06, § 1(14-384), 12-16-2014)

Sec. 14-679. - Underground utilities.

All utilities are required to be placed underground in all new subdivisions of two or more lots except where no utility improvements are required by this chapter, or where the community development director determines underground utilities are infeasible due to shallow rock, high water table, or other similar geologic or hydrologic conditions.
(Ord. No. 2014-12-06, § 1(14-385), 12-16-2014)

Sec. 14-680. - Streetlights.

Streetlights consistent with state power specifications, are required in all new subdivisions of two or more lots except where no utility improvements are required by this chapter. Streetlights shall be provided on the same side of the street as sidewalks.
(Ord. No. 2014-12-06, § 1(14-386), 12-16-2014)

Secs. 14-681—14-703. - Reserved.

Subdivision V. - Private Sewage Disposal

Sec. 14-704. - Drainage between lots.

Where drainage between subdivision lots is involved and pipe is required, a watertight pipe shall be used and shall extend for a sufficient depth of the lot and not terminate at some point just behind the building line causing pools to be formed or stormwater flooding the area of the septic tank drain field.
(Ord. No. 2014-12-06, § 1(14-400), 12-16-2014)

Sec. 14-705. - Impoundment permit.

Where ponds one-tenth of an acre or larger are located in a subdivision or adjoin a subdivision, an impoundment permit shall be obtained in compliance with the impounded water regulations of the state board of natural resources.

(Ord. No. 2014-12-06, § 1(14-401), 12-16-2014)

Sec. 14-706. - Compliance with board of health requirements.

All septic tank systems shall conform to the requirements of the county board of health.

(Ord. No. 2014-12-06, § 1(14-402), 12-16-2014)

Secs. 14-707—14-725. - Reserved.

ARTICLE VIII. - FLOODPLAIN MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 14-726. - Findings of fact.

It is determined that:

- (1) The flood hazard areas of the city are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas.
- (3) Effective floodplain management and flood hazard protection activities can:
 - a. Protect human life and health;
 - b. Minimize damage to private property;
 - c. Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and
 - d. Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.
- (4) Article IX, section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city does ordain this article and establishes this set of floodplain management and flood hazard reduction policies for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

(Ord. No. 2013-09-03, § 1(14-407), 9-10-2013)

Sec. 14-727. - Purpose and intent.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (5) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; and
- (6) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(Ord. No. 2013-09-03, § 1(14-408), 9-10-2013)

Sec. 14-728. - Applicability.

This article shall be applicable to all areas of special flood hazard within the city.

(Ord. No. 2013-09-03, § 1(14-409), 9-10-2013)

Sec. 14-729. - Designation of article administrator.

The community development director or their designee is appointed to administer and implement the provisions of this article.

(Ord. No. 2013-09-03, § 1(14-410), 9-10-2013)

Sec. 14-730. - Basis for area of special flood hazard; flood area maps and studies.

For the purposes of this article, the following are adopted by reference:

- (1) The current Flood Insurance Study (FIS) and data for DeKalb County, Georgia, dated May 16, 2013, with accompanying maps and other supporting data and any revision thereto are adopted by reference.
- (2) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain and floodprone areas include:
 - a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey or any other local, state or federal agency applicable to the city; or
 - b. Any base flood study authored by a registered professional engineer in the state which has been prepared by FEMA approved methodology and approved by the director.
- (3) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and floodprone areas include:
 - a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the city; or
 - b. Any future conditions flood study authored by a registered professional engineer in the state which has been prepared by FEMA approved methodology approved by the director.
- (4) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at city hall.

(Ord. No. 2013-09-03, § 1(14-411), 9-10-2013; Ord. No. 2013-10-03, § 1, 10-8-2013)

Sec. 14-731. - Compatibility with other regulations.

This article is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

(Ord. No. 2013-09-03, § 1(14-412), 9-10-2013)

Sec. 14-732. - Warning and disclaimer of liability.

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

(Ord. No. 2013-09-03, § 1(14-414), 9-10-2013)

Sec. 14-733. - Specific definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

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

Appeal means a request for a review of the floodplain coordinator's interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet, or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and floodprone areas at or below the base flood elevation (including A, A1-30, A-99, AE, AO, AH, and AR on the FHBM or the FIRM), all floodplain and floodprone areas at or below the future-conditions flood elevation, and all other floodprone areas as referenced in section 14-730. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.

Areas hydraulically adjacent to the Future-conditions Floodplain means those areas that are at or below either three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever higher, unless the area is hydraulically independent (meaning absolutely no connection to the flooding source such as through pipes, sewer laterals, down drains, foundation drains, ground seepage, overland flow, gated or valved pipes, excavated and backfilled trenches, etc. with no fill or other manmade barriers creating the separation).

Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

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

Basement means any area of the building having its floor subgrade; i.e., below ground level on all sides.

Basin means a region or land area drained by a single river system.

Building See definition for "Structure."

Development means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

Director means the community development director or designee.

Elevated building means a nonbasement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

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

Existing construction means any structure for which the "start of construction" commenced before September 10, 2013.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 10, 2013.

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

FEMA means the Federal Emergency Management Agency.

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

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazards or risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report issued by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, and water surface elevation of the base flood.

Floodplain means any land area susceptible to flooding floodplain coordinator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents

Floodway or regulatory floodway means the channel of stream or other watercourse and the adjacent land areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the water surface elevation more than one foot.

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

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

Future-conditions flood elevation means the highest water surface anticipated at any given point during the future-conditions flood.

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

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

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

Historic structure means any structure that is:

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

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

Land development activities means those actions or activities that comprise or facilitate a result in land development.

Land development project means a specific land development undertaking.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this article.

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar

transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle."

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

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

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

New construction, for floodplain management purposes, means structures for which the start of construction commenced on or after September 10, 2013, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the instillation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 10, 2013.

North American Vertical Datum (NAVO) of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

Owner means the legal or beneficial owner of a site, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permit means the permit issued by the director to the applicant that is required prior to undertaking any development activity.

Recreational vehicle means a vehicle which is:

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

Site means the parcel of land being developed, or the portion thereof on which the land development project is located.

Start of construction includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit issuance. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab for footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Subdivision means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

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

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building means:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement; or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures that have incurred substantial damage, regardless of the actual amount of repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, which have been pre-identified by the code enforcement official, and not solely triggered by an improvement or repair project.

Substantially improved existing manufactured home park or subdivision means the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads when the cost of such repair, reconstruction, rehabilitation or improvement equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article.

Violation means the failure of a structure or other development to be fully compliant with community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

(Ord. No. 2013-09-03, § 1(14-415), 9-10-2013; Ord. No. 2017-08-07, § I, 8-22-2017)

Secs. 14-734—14-764. - Reserved.

DIVISION 2. - PERMITS AND PLANS

Sec. 14-765. - Permit application requirements.

- (a) No owner or developer shall perform any development activities on a site where an area of special flood hazard is located without first meeting the requirements of this division prior to commencing the proposed activity.
- (b) Unless specifically excluded by this division, any landowner or developer desiring a permit for a development activity shall submit to the director a permit application on a form provided by the director for that purpose.
- (c) No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this division.

(Ord. No. 2013-09-03, § 1(14-416), 9-10-2013)

Sec. 14-766. - Floodplain management plan requirements.

- (a) An application for a development project with any area of special flood hazard located on the site will be required to include a floodplain management I flood damage prevention plan. This plan shall include the following items:
- (1) Site plan drawn to scale, which includes, but is not limited to:
 - a. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
 - b. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
 - c. Proposed locations of water supply, sanitary sewer, and utilities;
 - d. Proposed locations of drainage and stormwater management facilities;
 - e. Proposed grading plan;
 - f. Base flood elevations and future-conditions flood elevations;
 - g. Boundaries of the base flood floodplain and future-conditions floodplain;
 - h. If applicable, the location of the floodway; and
 - i. Certification of the above by a registered professional engineer or surveyor.
 - (2) Building and foundation design detail, including, but not limited to:
 - a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - c. Certification that any proposed nonresidential floodproofed structure meets the criteria in section 14-815(2);
 - d. For enclosures below the base flood elevation, location and total net area of foundation openings as required in section 14-814(5); and
 - e. Design plans certified by a registered professional engineer or architect for all proposed structures.
 - (3) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
 - (4) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre- and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS.
 - (5) Copies of all applicable state and federal permits necessary for proposed development.
 - (6) All appropriate certifications required under this division.
- (b) The approved floodplain management I flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.
- (Ord. No. 2013-09-03, § 1(14-417), 9-10-2013)

Sec. 14-767. - Construction stage submittal requirements.

- (a) For all new construction and substantial improvements on sites with a floodplain management I flood damage prevention plan, the permit holder shall provide to the floodplain coordinator a

certified as-built elevation certificate or floodproofing certificate for nonresidential construction including the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for non-residential structures, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

- (b) Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The floodplain coordinator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed.
- (c) Failure to submit certification or failure to make the corrections required shall be cause to issue a stop work order for the project.

(Ord. No. 2013-09-03, § 1(14-418), 9-10-2013)

Sec. 14-768. - Duties and responsibilities of the floodplain coordinator.

Duties of the floodplain coordinator shall include, but not be limited to:

- (1) Review all development applications and permits to ensure that the requirements of this division have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- (2) Require that copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including, but not limited to, section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344, be provided and maintained on file;
- (3) When base flood elevation data or floodway data have not been provided, require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to meet the provisions of divisions 3 and 4 of this article;
- (4) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
- (5) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been floodproofed;
- (6) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a registered professional engineer or architect;
- (7) Notify affected adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (8) Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and
- (9) Maintain all records pertaining to the provisions of this division in the office and shall open them for public inspection.

(Ord. No. 2013-09-03, § 1(14-419), 9-10-2013)

Secs. 14-769—14-789. - Reserved.

DIVISION 3. - STANDARDS FOR DEVELOPMENT

Sec. 14-790. - Definition of floodplain boundaries.

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

(Ord. No. 2013-09-03, § 1(14-420), 9-10-2013)

Sec. 14-791. - Definition of floodway boundaries.

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

(Ord. No. 2013-09-03, § 1(14-421), 9-10-2013)

Sec. 14-792. - General standards.

- (a) No development shall be allowed within the future-conditions floodplain that could result in any of the following:
 - (1) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;
 - (2) Reducing the base flood or future-conditions flood storage capacity;
 - (3) Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or
 - (4) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- (b) Any development within the future-conditions floodplain allowed under subsection (a) of this section shall also meet the following conditions:
 - (1) Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;
 - (2) Cut areas shall be stabilized and graded to a slope of no less than two percent;
 - (3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;

- (4) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of section 14-793;
- (5) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from floodwaters; and
- (6) Any significant physical changes to the base flood floodplain shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the director using the community consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final letter of map revision (LOMR).

(Ord. No. 2013-09-03, § 1(14-422), 9-10-2013; Ord. No. 2018-03-07, § I, 3-27-2018)

Sec. 14-793. - Engineering study requirements for floodplain encroachments.

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations or floodways for which the provisions of section 14-817 apply. This study shall be prepared by a currently registered professional engineer in the state and made a part of the application for a permit. This information shall be submitted to and approved by the director prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- (1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (2) Step-backwater analysis, using a FEMA-approved methodology approved by the director. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;
- (3) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
- (4) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

(Ord. No. 2013-09-03, § 1(14-423), 9-10-2013; Ord. No. 2018-03-07, § I, 3-27-2018)

Sec. 14-794. - Floodway encroachments.

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

- (1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in subsection (2) of this section;

- (2) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data anti certification thereof; and
- (3) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the director until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA and no-rise certification is approved by the director.

(Ord. No. 2013-09-03, § 1(14-424), 9-10-2013)

Sec. 14-795. - Maintenance requirements.

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

(Ord. No. 2013-09-03, § 1(14-425), 9-10-2013)

Secs. 14-796—14-813. - Reserved.

DIVISION 4. - FLOOD HAZARD REDUCTION

Sec. 14-814. - General standards.

In all areas of special flood hazard, the following provisions apply:

- (1) New construction and substantial improvements of principal buildings (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of sections 14-792, 14-793 and 14-794 have been met;
- (2) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (3) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (5) Elevated buildings. All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood-resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater:
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 1. Provide a minimum of two openings having a total area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade; and
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions;

- b. So as not to violate the lowest floor criteria of this division, the unfinished and flood-resistant enclosure shall solely be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area;
 - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms;
- (6) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed or located three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (7) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - (8) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - (9) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
 - (10) On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding;
 - (11) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this division, is undertaken only if the nonconformity is not furthered, extended or replaced; and
 - (12) If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.
- (Ord. No. 2013-09-03, § 1(14-426), 9-10-2013)

Sec. 14-815. - Building standards for structures and buildings within the areas of special flood hazard.

The following provisions, in addition to those in section 14-792, shall apply:

(1) *Residential buildings.*

- a. *New construction* and substantial improvements. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the area of special flood hazard unless all requirements of sections 14-792, 14-793 and 14-794 have been met. If all of the requirements of sections 14-792, 14-793 and 14-794 have been met, all new construction and substantial improvements shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of section 14-814(5).

(2) *Nonresidential buildings.*

- a. *New construction and substantial improvements.* New construction and substantial improvements of principal buildings, including manufactured homes shall not be allowed within the limits of the area of special flood hazard unless all requirements of sections 14-792, 14-793 and 14-794 have been met. New construction and substantial improvements that has met all of the requirements of sections 14-792, 14-793 and 14-794 may be

floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the floodplain coordinator.

- (3) *Accessory structures and facilities.* Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar non-habitable structures and facilities) which are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with section 14-814(5) and be anchored to prevent flotation, collapse or lateral movement of the structure.
- (4) *Standards for recreational vehicles.* All recreational vehicles placed on sites must either:
 - a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
 - b. Meet all the requirements for residential buildings—substantial improvements (subsection (1)b of this section), including the anchoring and elevation requirements.
- (5) *Standards for manufactured homes.*
 - a. New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of sections 14-792, 14-793 and 14-794 have been met.
 - b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:
 - 1. The lowest floor of the manufactured home is elevated no lower than three feet above the level of the base flood elevation, or one foot above the future-conditions flood elevation, whichever is higher; or
 - 2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
 - c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of section 14-814(7).

(Ord. No. 2013-09-03, § 1(14-427), 9-10-2013)

Sec. 14-816. - Building standards for structures and buildings authorized adjacent to the future-conditions floodplain.

- (a) *Residential buildings.* For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of section 14-814(5).

- (b) *Nonresidential buildings.* For new construction or substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one foot above the level of the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of section 14-814(5).
(Ord. No. 2013-09-03, § 1(14-428), 9-10-2013)

Sec. 14-817. - Building standards for residential single-lot developments on streams without established base flood elevations or floodway (A-zones).

- (a) For a residential single-lot development not part of a subdivision that has areas of special flood hazard, where streams exist but no base flood data have been provided (A-zones), the floodplain coordinator shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions and standards of this division.
- (b) If data are not available from any of these sources, the following provisions shall apply:
- (1) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.
 - (2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 14-814(5).
- (Ord. No. 2013-09-03, § 1(14-429), 9-10-2013)

Sec. 14-818. - Building standards for areas of shallow flooding (AO-Zones).

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

- (1) All substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to no lower than one foot above the flood depth number in feet specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 14-814(5);
- (2) Substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. No. 2013-09-03, § 1(14-430), 9-10-2013)

Sec. 14-819. - Standards for subdivisions.

- (a) All subdivision proposals shall identify the special flood hazard area and provide base flood elevation data and future-conditions flood elevation data.
- (b) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required.
- (c) All subdivision plans will provide the elevations of proposed structures in accordance with section 14-766.
- (d) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (e) All subdivision proposals shall have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of floodwaters, and discharges from the systems into floodwaters.
- (f) All subdivision proposals shall include adequate drainage and stormwater management facilities per the requirements of city to reduce potential exposure to flood hazards.

(Ord. No. 2013-09-03, § 1(14-431), 9-10-2013)

Secs. 14-820—14-846. - Reserved.

DIVISION 5. - VARIANCE PROCEDURES

Sec. 14-847. - Request for variance; appeals.

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this division. A request for a variance may be submitted by an applicant who has been denied a permit by the director or by an owner or developer who has not previously applied for a permit for the reasons stated herein.

- (1) Requests for variances from the requirements of this division shall be submitted to the director. All such requests shall be heard and decided in accordance with procedures to be published in writing by the director. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (2) Any person adversely affected by any decision of the director shall have the right to appeal such decision to the ~~zoning board of appeals~~board of appeals as established by the city in accordance with procedures to be published in writing by the ~~zoning board of appeals~~board of appeals. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (3) Any person aggrieved by the decision of the ~~zoning board of appeals~~board of appeals may appeal such decision to the superior court of the county by writ of certiorari, as provided in this Code and the Official Code of Georgia.
- (4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.
- (5) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists,

and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

- (6) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (7) In reviewing such requests, the director and ~~zoning board of appeals~~board of appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this division.
 - (8) Conditions for variances.
 - a. A variance shall be issued only when there is:
 - 1. A finding of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.
 - b. The provisions of this division are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - c. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 - d. The floodplain coordinator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
 - (9) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the director and ~~zoning board of appeals~~board of appeals shall deem necessary to the consideration of the request.
 - (10) Upon consideration of the factors listed above and the purposes of this division, the director and the ~~zoning board of appeals~~board of appeals may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this division.
 - (11) Variances shall not be issued after the fact.
- (Ord. No. 2013-09-03, § 1(14-432), 9-10-2013)

Secs. 14-848—14-872. - Reserved.

DIVISION 6. - VIOLATIONS, ENFORCEMENT, AND PENALTIES

Sec. 14-873. - Imposition; equitable relief.

Any action or inaction which violates the provisions of this division or the requirements of an approved stormwater management plan or permit may be subject to the enforcement actions outlined in this division. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described of this division shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(Ord. No. 2013-09-03, § 1(14-433), 9-10-2013)

Sec. 14-874. - Notice of violation.

- (a) If the floodplain coordinator determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this division, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this division without having first secured a permit thereof, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.
- (b) The notice of violation shall contain:
 - (1) The name and address of the owner or the responsible person;
 - (2) The address or other description of the site upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this division and the date for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - (6) A statement that the determination of violation may be appealed to the director by filing a written notice of appeal within 30 days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

(Ord. No. 2013-09-03, § 1(14-434), 9-10-2013)

Sec. 14-875. - Penalties.

- (a) *Procedure.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the director shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the director may take any one or more of the following actions or impose any one or more of the following penalties:
 - (1) *Stop work order.* The director may issue a stop work order that shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
 - (2) *Withhold certificate of occupancy.* The director may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - (3) *Suspension, revocation or modification of permit.* The director may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described

therein, provided such permit may be reinstated (upon such conditions as the director may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- (b) *Issuance of citation; violation.* For violations of this article, the director may issue a citation to the owner or other responsible person, requiring such person to appear in the appropriate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine as set forth in section 1-11. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 2013-09-03, § 1(14-435), 9-10-2013)